



भारत का राजपत्र The Gazette of India

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नई दिल्ली, शनिवार, सितम्बर ७, १९६८/भाद्र १६, १८९०

No. 36]

NEW DELHI, SATURDAY, SEPTEMBER 7, 1968/BHADRA 16, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड ३—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रखा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़ कर)

केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 30th July 1968

S.O. 2961.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 20th May, 1968 by the High Court of judicature at Allahabad in Election Petition No. 30 of 1967.

IN THE COURT OF JUDICATURE AT ALLAHABAD

CIVIL SIDE

ORIGINAL JURISDICTION

Allahabad the 20th May, 1968.

PRESENT

The Hon'ble D. S. Mathur.—Judge.

ELECTION PETITION NO. 30 OF 1967.

Order on the application of Vishwanath Singh—Petitioner.

In Re:

Vishwanath Singh Gahmari son of Maharej Singh, resident of Mohalla Bishesharganj, Gehazipur City —————Petitioner.

Versus

1. Shri Sarjoo Pandit, son of Shri Munbir Pandit, resident of Mohalla Kapoorpur, Ghazipur.
2. Shri Kalyan Tejendra Narain Singh alias Rajaji son of Sri Kedar Narain Singh resident of K. 55/114 Aisarganj, Palace Varanasi.
3. Shri Manjari Singh Yadav, s/o Sri Vishwanath, resident of Garua Maqsoodpur, District Ghazipur.
4. Shri Ramjee Rai, son of Shri Nigmar Rai, resident of village and P. O. Sherpurkalan, District Ghazipur.
5. Shri Ram Sagar Singh, son of Shri Jatan Singh, resident of R.S.P. Officer Misirbazar, Ghazipur.
6. Shri Hari Shankar Tewari, son of Markanda Tewari, resident of village Kataria Upurwar, P. O. Durnanagar, District Ghazipur.....*Respondents.*

By the Court

Shri Palan Nath Singh, Advocate for the petitioner, made a statement that he has no instruction and the petitioner is not prepared for visit of court on. Sri M. A. Ansari, Advocate for respondent No. 1, made a statement that he does not press for costs. The election petition is accordingly dismissed. Costs easy.

Dated 20 May 1968.

Sd/- D.S.M.

- [No. 82/30 of 1967/UP/67 (Allid.)]

New Delhi, the 12th August, 1968

S.O. 2962.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 23rd July, 1968 by the High Court of Judicature at Allahabad in Election Petition of 25 of 1967.

**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
CIVIL SIDE**

ORIGINAL JURISDICTION

Allahabad the 23rd July, 1968

PRESENT:

The Hon'ble M. Chandra—Judge.

ELECTION PETITION No. 25 OF 1967.

Order on the application of Shri Brij Raj Singh alias Achchoo Babu, son of Shri Thakur Prithvi Raj Singh, Resident of Civil Lines, Bareilly—*Petitioner.*

In Re.

Shri Brij Raj Singh—*Petitioner.*

Vs.

Smt. Savitri Shyam & others—*Respondents.*

BY THE COURT

Present Sri R. P. Goel—for the petitioner.

Learned counsel for the petitioner states that he has no instructions to proceed with the petition.

ORDER

The petition is dismissed for non prosecution. No order as to costs.

Dated 23rd July, 1968.

Sd./- M. C.

[No. 82/25 of 1967/UP/68/(LLD).]

ORDER

New Delhi, the 19th August 1968

S.O. 2963.—Whereas the Election Commission is satisfied that Shri Sagheer Ahamed, 26, Krumbigal Road, Chickmavalli, Bangalore, a contesting candidate for election to the House of the People from 12-Kanakapura constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Sagheer Ahamed to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. MY-HP/12/67.]

CORRIGENDUM

New Delhi, the 26th August 1968

S.O. 2964.—In the Election Commission of India Order No. BR-HP/52/67 (23), dated the 23rd January, 1968, made under the section 10A of the Representation of the People Act, 1951, bearing S.O. 492, and appearing on page 519 in the Gazette of India, Part II, Section 3(ii), dated the 10th February, 1968, the number of the Order may be corrected to read as BR-HP/52/67 (23-A).

[No. BR-HP/52/67.]

By Order,

A. N. SEN, Secy.

New Delhi, the 19th August 1968

S.O. 2965.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby directs that in column 3 of the Table appended to its notification No. 434/GJ/68, dated the 27th February, 1968, for the existing entry No. 2, against "3. Rajkot" the entry, "2. Prani Officer, Rajkot sub-division, Rajkot" shall be substituted.

[No. 434/GJ/68.]

ORDER

New Delhi, the 8th August 1968

S.O. 2966.—Whereas the Election Commission is satisfied that Shri Patil Dattajirao Keru, H. No. 82, & P. O. Wathar, Tal Karad, District Satara, a contesting candidate for election to the House of the People from Karad Constituency, has failed to lodge an account of his election expenses as required by the representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Patil Dattajirao Keru to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MT-HP/42/67.]

By Order,

K. S. RAJAGOPALAN, Secy.

CABINET SECRETARIAT

(Department of Statistics)

New Delhi, the 20th August 1968

S.O. 2967.—In exercise of the powers conferred by section 14 of the Collection of Statistics Act, 1953 (32 of 1953), the Central Government hereby makes the following rules,

further to amend the Collection of Statistics (Central) Rules, 1959, the same having been previously published as required by sub-section (1) of the said section, namely :—

1. These rules may be called the Collection of Statistics (Central) Amendment Rules, 1968.
2. In rule 2 of the Collection of Statistics (Central) Rules, 1959 (hereinafter referred to as the said rules), for clause (5), the following clause shall be substituted, namely :—
“(5) ‘survey year’, in relation to a factory, industrial concern or plantation, means the accounting year of the factory, industrial concerns, or plantation, ending on any date between 1st April of the year in respect of which the statistics are being collected and the 31st of March of the succeeding year.”
3. In rule 3 of the said rules, in clause (b), the words “or if the company’s accounting year does not correspond to the survey year, then for the accounting year which corresponds as nearly as possible to the survey year, for which the accounts have been closed” shall be omitted.

[No. 16/3/68-Tech.]

S. P. JAIN, Deputy Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 19th August, 1968

S. O. 2968.—In exercise of the powers conferred by clause (2) of article 77 of the Constitution, the President hereby makes the following rules further to amend the Authentication (Orders and other Instruments) Rules, 1958, namely :—

1. (1) These rules may be called the Authentication (Orders and other Instruments) Fifth Amendment Rules, 1968.
- (2) They shall come into force on the date of their publication in the official Gazette.
2. In rule 2 of the Authentication (Orders and other Instruments) Rules, 1958, after clause (a) the following clause shall be inserted, namely :—
“(am) In the case of orders and other instruments relating to the Ministry of Food, Agriculture, Community Development and Co-operation (Department of Food), by the Chief Director of Purchase, a Director, or a Deputy Director in the Department of Food in that Ministry ; or”

[No. 3/5/67-Pub. I.]

CORRIGENDUM

New Delhi, the 29th August 1968

S.O. 2969.—In the notification of the Government of India in the Ministry of Home Affairs S.O. 2531 (F. No. 17/79/66-SR), dated the 9th July 1968, published at pages 775 to 776 of the Gazette of India Extraordinary, Part II, Section 3, Sub-Section (ii), dated the 9th July 1968, at page 776, in line 1 of clause (d), for ‘Technical’ read ‘Techni’cal’.

[No. F. 17/79/66-SR.]

K. R. PRABHU, Jt. Secy.

New Delhi, the 3rd August 1968

S.O. 2970.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the “Tripura Employees (Revision of Pay and allowances) Rules, 1963”, published with the notification of the Government of India in the Ministry of Home Affairs No. S.O. 516 dated the 4th February, 1964, namely :—

1. (i) These rules may be called the “Tripura Employees (Revision of Pay and Allowances) Second Amendment Rules, 1968”.

2. In part I of Schedule 1 to the Tripura Employees (Revision of Pay and Allowances) Rules, 1963—

- (I) (i) Under the heading "Industries Department" entries against items No. 2, 4, 7, 8, 9, 14, 15, 16, 17, 24, 31, 32, 41, 46; 47; 48; 52; 67; 68; 71 and 72 shall be deleted.
- (ii) Under the heading Industries Department the word "Store Keeper" in Col. 2 against item 22 shall be deleted.
- (II) Under the heading "Statistical Department" entries against items No. 4, 8, 12, 13, 14, 15 and 18 shall be deleted.
- (III) Under the heading "Statistical Department" words "Superintendent National Sample Survey" in Column 2 against item No. 2 shall be deleted.
- (IV) Under the Head "Courts" entries against items No. 11, 22, 23, 24, 25, 26, 27 and 28 shall be deleted.
- (V) (i) Under the heading "Courts" words, "Sharistadar, Additional Sub-Judges' Court" in Column 2 against item No. 14 shall be deleted.
- (ii) Under the heading "Courts" words "Bench Clerk/Suit Clerk, Additional Sub-Judge's Court/Civil Suit Clerk, Sub-Judge's Courts" in column 2 against item No. 16 shall be deleted.
- (VI) Under the heading "Cooperative Department" words "Project Officer/Senior Inspector" in column 2 against item No. 4 shall be deleted.
- (VII) Under the heading "Cooperative Department" words "Cooperation Statistical Investigator" in column 2 against item No. 5 shall be deleted.
- (VIII) Under the heading "Cooperative Department" words "Statistical Assistant" in Column 2 against item No. 7 shall be deleted.
- (IX) Under the heading "Printing and Stationery" entry against item No. 2 shall be deleted.
- (X) Under the heading "Tribal Welfare Section" entry against item No. 72 shall be deleted.
- (XI) Under the heading "Agriculture Department" entries against items No. 5, 8, 11, 15, 19, 20, 21, 29 and 43 shall be deleted.
- (XII) Under the heading "Agriculture Department" words "Superintendent of Agriculture (Marketing) Soil Conservation/Cashewnut Development Officer" in column 2 against item No. 2 shall be deleted.
- (XIII) Under the heading "Agriculture Department" words "Instructor Engineering/Species Development Officer/Seed Multiplication Officer/Farm Development Officer/Agriculture Officer" in Column 2 against item No. 6 shall be deleted.
- (XIV) Under heading "Agriculture Department" words "Technical Assistant (Marketing)/Research Assistant/Special Officer (Soil Survey)/Special Officer (Reclamation)/Supervisor (Reclamation)" in column 2 against item No. 9 shall be deleted.
- (XV) Under the heading "Agriculture Department" words "Jute Overseer/Demonstration Overseer" in column 2 against item No. 22 shall be deleted.
- (XVI) Under heading "Agriculture Department" words "Mechanic" in column 2 against item No. 32 shall be deleted.
- (XVII) Under heading "Agriculture Department" word "Chairman" in Column 2 against item No. 36 shall be deleted.
- (XVIII) Under the heading "Secretariat Administration Department" entry against item No. 10 shall be deleted.

[No. 2/17/67-HMT.]

R. C. JAIN, Dy. Secy.

New Delhi, the 28th August 1968

S.O. 2971.—In pursuance of sub-rule (2) of rule 9, clause (d) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24, read with rule 34, of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 628 dated the 28th February, 1957, namely:—

In the said Schedule,—

in Part II—General Central Services, Class III, after the existing entries, the following entries shall be inserted, namely:—

| 1 | 2 | 3 | 4 | 5 |
|--|-------------------------------|-------------------------------|-----|---|
| <hr/> | | | | |
| “Reception Organisation, Ministry of Home Affairs, Senior Reception Officers | Chief Security Officer | Chief Security Officer | All | Joint Secretary in charge of Adminis- tration.” |
| Junior Reception Officer | Secretariat Security Force | Secretariat Security Force | | |

[No. 26/13/68-Ad. I (A.)]
G. W. Balchandani, Deputy Secy.

New Delhi, the 31st August 1968

S.O. 2972.—In exercise of the powers conferred by Section 4 of the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 (6 of 1965), the Central Government hereby appoints Shri P. M. Joseph as Collector for the purposes of the said Regulation.

[No. 1/2(18)68-ANL(I).]

S.O. 2973.—In exercise of the powers conferred by Section 4 of the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 (6 of 1965), the Central Government hereby appoints Shri V. H. Iskur as Settlement Officer for the purposes of the said Regulation.

[No. 1/2(18)68-ANL(ii).]
R. C. GUPTA, Under Secy.

ORDER

New Delhi, the 6th August 1968

S.O. 2974.—In exercise of the powers conferred by rule 24 of the Central Civil Services (Conduct) Rules, 1964, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the Central Government hereby directs that the powers exercisable by it and the Comptroller and Auditor General of India under sub-rules (2) and (3) of rule 18 of the said rules shall, subject to any general or special instructions issued by the Central Government in this behalf, be also exercisable by the Heads of Department in respect of Class I Officers serving under their control, subject to the following conditions, namely:—

- In relation to the Heads of Department themselves, the said powers shall continue to be exercised by the Central Government or the Comptroller and Auditor General of India, as the case may be; and
- All cases of sanction accorded by the said Heads of Department shall be reported to the Central Government or the Comptroller and Auditor General of India, as the case may be.

[No. 25/11/68-ESTS(A).]
P. S. VENKATESWARAN, Under Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 29th July 1968

S.O. 2975.—WHEREAS, the Central Government have by Notification No. M.II-1181(4)/67 dated the 4th May, 1968 (published in Part II, Section 3, Sub-Section (ii) of the Gazette of India dated the 18th May, 1968—S.O. No. 1692) declared vacant the two seats held in the Haj Committee, Bombay by Sarvashri Mohiuddin Noor Mohamed Munshi and Khattal Musa Phani-band, former members of the Municipal Corporation of Greater Bombay.

In accordance with Rule 8 of the Haj Committee Rules, 1963, Sarvashri Dr. Alimohammed Umar Memon and Ahmed Balumia Zakaria, M.A., have been nominated by the Government of Maharashtra in place of Sarvashri Mohiuddin Noor Mohamed Munshi and Khattal Musa Phani-band, to represent the Muslim members of the Municipal Corporation of Greater Bombay for the unexpired term of the Haj Committee, Bombay.

Now, therefore, in pursuance of Sub-section (2) of Section 4 of the Haj Committee Act, 1959 (51 of 1959), the Central Government hereby notify that Sarvashri Dr. Alimohammed Umar Memon and Ahmed Balumia Zakaria, M.A., shall be the members of the Haj Committee, Bombay, in place of above mentioned Sarvashri Munshi and Phani-band for the unexpired term of the said Committee as constituted under Section 3, 4 & 5 of the Haj Committee Act, 1959, published in the Gazette of India under Notification No. M. II-1181(4)/67 dated October 28, 1967 read with the Notifications of even number dated 8-8-1967 and 5-9-1967.

[No. M. II-1181 (4)/67]

R. K. MEHRA,
Attache (AP.)

विदेश मंत्रालय

नई दिल्ली, 29 जुलाई, 1968

एस० ओ० 2976.—केन्द्र सरकार ने अपनी अधिसूचना संख्या एम० 2-1181(4)/67 दिनांक 4 मई, 1968 में (जो कि 18 मई, 1968 को भारत-राजपत्र के भाग-2, खण्ड 3, उपखण्ड (2) में प्रकाशित किया गया था—एस० ओ० नं० (1693) हज समिति, बम्बई, में बृहत्तर बम्बई के म्यूनिसिपल कारपोरेशन के भूतपूर्व सदस्य सर्वश्री मोहिउद्दीन नूर मोहम्मद मुंशी और खतल मुसा फानीबंद के दो नि. स्थान होने की घोषणा की थी।

और, हज समिति नियम, 1963 के नियम 8 के अनुसार महाराष्ट्र सरकार की, हज समिति की शेष अवधि के लिए, बृहत्तर बम्बई के म्यूनिसिपल कारपोरेशन के मुसलमान सदस्यों का प्रतिनिधित्व करने के लिए सर्वश्री मोहिउद्दीन नूर मोहम्मद मुंशी और खतल मुसा फानीबंद के स्थान पर सर्वश्री डा० अली मोहम्मद उमर मेमन और अहमद बालूमिया जकारिया, एम०, ए० को मनोनीत किया है।

इसलिए, अब, हज समिति अधिनियम, 1959 (1959 का 51) की धारा 4 की उपधारा (2) के अनुसार, केन्द्र सरकार इसके द्वारा अधिसूचित करती है कि उपर्युक्त सर्वश्री मुंशी और फानीबंद के स्थान पर सर्वश्री डा० अली मोहम्मद उमर मेमन और अहमद बालूमिया जकारिया, एम० ए०, हज समिति अधिनियम, 1959 की धारा 3, 4 और 5 के अंतर्गत गठित [भारत सरकार की अधिसूचना संख्या एम० 2-1181 (4)/67, दिनांक 28 अक्टूबर, 1967 में प्रकाशित और 8-8-1967 तथा 5-9-1967 की समसंख्या अधिसूचनाओं के साथ पठित] उक्त समिति की शेष अवधि के लिए, हज समिति, बम्बई के सदस्य होंगे।

[सं० एम० 2-1181(4)/67.]

धार० के० मेहरा,
सहचारी (ए पी)।

New Delhi, the 17th August 1968

S.O. 2977.—In pursuance of Clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948, the Central Government hereby authorise Shri J. N. D. Lowe, Assistant in the Embassy of India, Amman-Jordan, to perform the duties of a Consular Agent, with immediate effect until further orders.

[No. T- 4330/1/68.]

S. K. CHATTERJEE, Under Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 24th August 1968

S.O. 2978.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and all other powers enabling him in this behalf and after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following Regulations further to amend the Civil Service Regulations, namely:—

1. These regulations may be called the Civil Service (Third Amendment) Regulations, 1968.

2. In the Civil Service Regulations, to Article 351, the following Explanation shall be added, namely:—

“Explanation.—In this Article, the expression ‘serious crime’ includes a crime involving an offence under the Official Secrets Act, 1923 (19 of 1923) and the expression ‘grave misconduct’ includes the communication or disclosure of any secret official code or pass-word or any sketch, plan, model, article, note, document or information, such as is mentioned in section 5 of the said Act (which was obtained while holding office under the Government) so as to prejudicially affect the interests of the General public or the security of the State.”

[No. 19(4)-R.V./68.]

D. C. SEN GUPTA, Under Secy.

(Department of Economic Affairs)

New Delhi, the 2nd August 1968

S.O. 2979.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, here by declares that the provisions of section 9 of the said Act shall not apply to the Lakshmi Commercial Bank Ltd., New Delhi, in respect of the property, viz., ‘Hans Raj Mills building’ held by it at Amritsar, till the 30th September 1968.

[No. F. 15(13)-BC/68.]

New Delhi, the 7th August 1968

S.O. 2980.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that till the 9th January, 1969 or the date on which the Martandam Commercial Bank Ltd., Trivandrum converts itself into a non-banking company, whichever is earlier,

(a) the provisions of clause (1) of sub-section (1) of section 16 of the said Act shall not apply to the Federal Bank Ltd., Alwaye and the Martandam Commercial Bank Ltd., Trivandrum, in so far as the said provisions prohibit each of the said banking

companies from having as director Shri P. K. Koruth, who is a director of the other banking company; and

(b) the provisions of sub-clause (i) of clause (c) of sub-section (1) of section 10 of the said Act shall not apply to the Martandam Commercial Bank Ltd., Trivandrum, in so far as the said provisions prohibit the said banking company from being managed by Shri P. K. Koruth its Managing Director (Chief Executive Officer) who is also a director of the Federal Bank Ltd., Alwaye.

[No. F. 15(17)-BC/68]

New Delhi, the 28th August 1968

S.O. 2981.—Statement of the Affairs of the Reserve Bank of India as on the 23rd August, 1968.

BANKING DEPARTMENT

| LIABILITIES | | Rs. | ASSETS | | Rs. |
|--|--|---------------|---|--|---------------|
| Capital paid up | | 5,00,00,000 | Notes | | 24,31,39,000 |
| | | | Rupee Coin | | 3,14,000 |
| Reserve Fund | | 80,00,00,000 | Small Coin | | 3,91,000 |
| National Agricultural Credit (Long Term Operations) Fund | | 143,00,00,000 | Bills Purchased and Discounted :— | | |
| | | | (a) Internal | | .. |
| | | | (b) External | | .. |
| | | | (c) Government Treasury Bills | | 139,06,86,000 |
| National Agricultural Credit (Stabilisation) Fund | | 33,00,00,000 | Balances Held Abroad* | | 98,21,17,000 |
| | | | Investments** | | 316,99,48,000 |
| National Industrial Credit (Long Term Operations) Fund | | 55,00,00,000 | Loans and Advances to :— | | |
| | | | (f) Central Government | | .. |
| | | | (#) State Governments @ | | 15,61,34,000 |

| Deposits :— | | Loans and Advances to :— | |
|--|---------------|--|---------------|
| (a) Government | | (i) Scheduled Commercial Banks† | |
| (i) Central Government | 64,78,48,000 | (ii) State Co-operative Banks†† | 61,50,54,000 |
| (ii) State Governments | 12,11,64,000 | (iii) Others | 165,48,70,000 |
| (b) Banks | | Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund :— | |
| (i) Scheduled Commercial Banks | | (a) Loans and Advances to :— | |
| (ii) Scheduled State Co-operative Banks | 146,77,57,000 | (i) State Governments | 31,68,12,000 |
| (iii) Non-Scheduled State Co-operative Banks | 5,89,05,000 | (ii) State Co-operative Banks | 15,80,69,000 |
| (iv) Other Banks | 1,04,58,000 | (iii) Central Land Mortgage Banks | .. |
| (c) Others | | (b) Investment in Central Land Mortgage Bank Debentures | 8,33,32,000 |
| Bills Payable | 27,05,47,000 | Loans and Advances from National Agricultural Credit (Stabilisation) Fund :— | |
| Other Liabilities | 28,93,88,000 | Loans and Advances to State Co-operative Banks | |
| Rupees | 926,16,72,000 | Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund :— | |
| | | (a) Loans and Advances to the Development Bank | 6,08,92,000 |
| | | (b) Investment in bonds/debentures issued by the Development Bank | .. |
| | | Other Assets | 33,78,27,000 |
| | | Rupees | 926,16,72,000 |

*Includes Cash, Fixed Deposits and Short-term Securities.

**Excluding investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 58,02,79,000 advanced to scheduled commercial banks against usance bills under section 17(4) (c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 28th day of August, 1968.

[An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 23rd day of August, 1968
ISSUE DEPARTMENT

| LIABILITIES | Rs. | Rs. | ASSETS | Rs. | Rs. |
|--------------------------------------|----------------|----------------|---|---------------|----------------|
| Notes held in the Banking Department | 24,31,39,000 | | Gold Coin and Bullion :— | | |
| Notes in Circulation | 3193,85,46,000 | | (a) Held in India | 115,89,25,000 | |
| Total Notes issued | | 3218,16,85,000 | (b) Held outside India | .. | |
| | | | Foreign Securities | 206,42,00,000 | |
| | | | TOTAL | | 322,31,25,000 |
| | | | Rupce Coin | | 82,80,92,000 |
| | | | Government of India Rupee Securities | | 2813,04,68,000 |
| | | | Internal Bills of Exchange and other commercial paper | | .. |
| TOTAL LIABILITIES | | 3218,16,85,000 | TOTAL ASSETS | | 3218,16,85,000 |

Dated the 28th day of August, 1968.

L. K. JHA,
Governor.

[No. F. 3(3)-BC/68.]

V. SWAMINATHAN, Under Secy.

(Department of Economic Affairs)

(Office of the Controller of Capital Issues)

New Delhi, the 21st August 1968

S.O. 2982.—In exercise of the powers conferred by Section II of the Capital Issues (Control) Act, 1947 (29 of 1947) and in supersession of the Notification of the Government of India in the Ministry of Finance, Department of Economic Affairs, S.O. 626 dated the 22nd February, 1966, the Central Government hereby reconstitutes the **Advisory Committee on Capital Issues Control** consisting of the following members:—

1. Shri C. H. Bhabha.
2. Shri S. S. Kanoria.
3. Shri R. S. Bhatt.
4. Shri A. K. Shivaramakrishnan.
5. Shri N. Dandekar, M.P.

Shri C. H. Bhabha shall be the Chairman of the Advisory Committee.

2. The Advisory Committee shall have a tenure of two years.

[No. F. 16(1)-CCI/68.]

S. S. SHIRALKAR, Addl. Secy.

(Department of Revenue and Insurance)

New Delhi, the 17th August 1968

S.O. 2983.—In pursuance of the provisions of rule 3 of the Insurance Claims Board Rules, 1952, the Central Government hereby nominates Shri G. A. Shah, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law as Chairman of the Insurance Claims Board *vice* Shri B. N. Lokur and makes the following amendment in the notification of the Government of India in the Ministry of Rehabilitation No. S.R.O. 312, dated the 31st January, 1953, as amended by the notification of the Government of India in the Ministry of Finance, Department of Economic Affairs No. S. O. 1025, dated the 22nd April, 1960, namely:—

In the said notification, for the existing entry against Serial No. 1. the following entry shall be substituted, namely:—

- "1. Shri G. A. Shah, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law (Chairman).

[No. 60(15)-INS(1)/59.]

RAJ K. NIGAM, Dy. Secy.

(Department of Revenue and Insurance)

INCOME-TAX

New Delhi, the 20th August 1968

S.O. 2984.—It is hereby notified for general information that the institution mentioned below has been approved by the Council of Scientific and Industrial Research, the "prescribed authority" for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961.

INSTITUTION

Vedhashala Astronomical Observatory, Ahmedabad.

[No. 69/F. No. 10/64/68-IT(A.II).]

J. C. KALRA, Deputy Secy.

CENTRAL BOARD OF DIRECT TAXES

INCOME-TAX

New Delhi, the 19th August 1968

S.O. 2985.—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf, the Central Board of Direct Taxes hereby makes the following further amendments in the schedule appended to its notification No. 68 (F. No. 50/88/67-ITJ), dated the 9th August, 1967, namely:

In the said Schedule:—

(a) Against Poona Range II, Poona under Column 2 the following shall be added:—

17. Addl. E-Ward, Poona.

(b) Against Kolhapur Range, Kolhapur under Column 2 the following shall be added:—

11. F-Ward, Kolhapur.

(c) Against Nasik Range, Nasik under Column 2 the following shall be added:

17. Recovery Circle, Thana.

(d) Against Jalgaon Range, Jalgaon under Column 2 the following shall be added:

8. C-Ward, Aurangabad.

(e) Against Akola Range, Akola under Column 2 the following shall be added:

8. C-Ward, Akola.

(f) Against Amravati Range, Amravati under Column 2 the following shall be added:

9. C-Ward, Wardha.

Explanatory Note:—

The amendments have become necessary on account of creation of eight new Circle/Wards in the Commissioner's Charge.

(This note does not form part of the notification, but is intended to be merely clarificatory).

[No. 71 (F. No. 50/17/68-ITJ).]

New Delhi, the 20th August 1968

S.O. 2986.—In exercise of the powers conferred by sub-section (1) of Section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all previous notifications in this regard, the Central Board of Direct Taxes hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in column 1 of the Schedule below shall perform their functions in respect of all persons and incomes assessed to Income-tax or Super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:—

SCHEDULE

| Range | Income-tax Circle, Ward and District |
|-----------------|---|
| 1 | 2 |
| A-Range, Indore | 1. I. T. O., A-Ward, Indore. 2. I.T.O., C-Ward, Indore. 3. I.T.O., E-Ward, Indore. 4. I.T.O., H-Ward, Indore. 5. I.T.O., P-Ward, Indore. 6. I.T.O., Q-Ward, Indore. 7. I.T.O., Khargone. 8. I.T.O., Special Estate Duty-cum-Income-tax Circle, Indore. |

| | |
|------------------------------------|---|
| B-Range, Indore | <ol style="list-style-type: none"> 1. I.T.O., Special Survey Circle, Indore. 2. I.T.O., Special Investigation Circle, Indore. 3. I.T.O., Central Circle, Indore. 4. I.T.O., B-Ward, Indore. 5. I.T.O., B-Ward, Indore. 6. I.T.O., F-Ward, Indore. 7. I.T.O., G-Ward, Indore. 8. I.T.O., I-Ward, Indore. 9. I.T.O., K-Ward, Indore. 10. I.T.O., L-Ward, Indore. 11. I.T.O., M-Ward, Indore. 12. I.T.O., N-Ward, Indore. 13. I.T.O., R-Ward, Indore. |
| Gwalior Range, Gwalior | <ol style="list-style-type: none"> 1. I.T.O., A-Ward, Gwalior. 2. I.T.O., B-Ward, Gwalior. 3. I.T.O., C-Ward, Gwalior. 4. I.T.O., D-Ward, Gwalior. 5. I.T.O., E-Ward, Gwalior. 6. I.T.O., F-Ward, Gwalior. 7. I.T.O., A-Ward, Sagar. 8. I.T.O., B-Ward, Sagar. 9. I.T.O., Guna. 10. I.T.O., Vidisha. |
| Bhopal Range, Bhopal | <ol style="list-style-type: none"> 1. I.T.O., A-Ward, Bhopal. 2. I.T.O., B-Ward, Bhopal. 3. I.T.O., C-Ward, Bhopal. 4. I.T.O., D-Ward, Bhopal. 5. I.T.O., E-Ward, Bhopal. 6. I.T.O., F-Ward, Bhopal. 7. I.T.O., A-Ward, Itarsi. 8. I.T.O., B-Ward, Itarsi. 9. I.T.O., A-Ward, Ujjain. 10. I.T.O., B-Ward, Ujjain. 11. I.T.O., C-Ward, Ujjain. 12. I.T.O., D-Ward, Ujjain. 13. I.T.O., E-Ward, Ujjain. |
| Ratlam Range, Ratlam | <ol style="list-style-type: none"> 1. I.T.O., A-Ward, Ratlam. 2. I.T.O., B-Ward, Ratlam. 3. I.T.O., C-Ward, Ratlam. 4. I.T.O., A-Ward, Mandasaur. 5. I.T.O., B-Ward, Mandasaur. 6. I.T.O., Mandasaur. |
| Jabalpur Range, Jabalpur | <ol style="list-style-type: none"> 1. I.T.O., Special Survey Circle, Jabalpur. 2. I.T.O., Central Circle, Jabalpur. 3. I.T.O., A-Ward, Jabalpur. 4. I.T.O., B-Ward, Jabalpur. 5. I.T.O., C-Ward, Jabalpur. 6. I.T.O., D-Ward, Jabalpur. 7. I.T.O., E-Ward, Jabalpur. 8. I.T.O., F-Ward, Jabalpur. 9. I.T.O., G-Ward, Jabalpur. 10. I.T.O., H-Ward, Jabalpur. 11. I.T.O., J-Ward, Jabalpur. 12. I.T.O., A-Ward, Satna. 13. I.T.O., B-Ward, Satna. 14. I.T.O., C-Ward, Satna. 15. I.T.O., D-Ward, Satna. 16. I.T.O., A-Ward, Katni. 17. I.T.O., B-Ward, Katni. |

Raipur Range, Raipur

1. I.T.O., A-Ward, Raipur.
2. I.T.O., B-Ward, Raipur.
3. I.T.O., C-Ward, Raipur.
4. I.T.O., D-Ward, Raipur.
5. I.T.O., E-Ward, Raipur.
6. I.T.O., Assessment-I, Raipur.
7. I.T.O., Assessment-II, Raipur.
8. I.T.O., Assessment-III, Raipur.
9. I.T.O., Assessment-IV, Raipur.
10. I.T.O., Assessment-V, Raipur.
11. I.T.O., Assessment-VI, Raipur.
12. I.T.O., Administration & Collection, Raipur.
13. I.T.O., A-Ward, Rajnandgaon.
14. I.T.O., B-Ward, Rajnandgaon.
15. I.T.O., Rajnandgaon.
16. I.T.O., A-Ward, Bilaspur.
17. I.T.O., B-Ward, Bilaspur.
18. I.T.O., Bilaspur.
19. I.T.O., A-Ward, Durg.
20. I.T.O., B-Ward, Durg.
21. I.T.O., C-Ward, Durg.
22. I.T.O., Jagdalpur.
23. I.T.O., Raigarh.

A-Range, Nagpur

1. I.T.O., A-Ward, Nagpur.
2. I.T.O., B-Ward, Nagpur.
3. I.T.O., E-Ward, Nagpur.
4. I.T.O., H-Ward, Nagpur.
5. I.T.O., Special Investigation Circle-A, Nagpur.
6. I.T.O., Special Investigation Circle-B, Nagpur.
7. I.T.O., Special Investigation Circle-C, Nagpur.
8. I.T.O., Special Investigation Circle-D, Nagpur.
9. I.T.O., Special: Survey Circle, Nagpur.
10. I.T.O., Salary Circles, Nagpur:—
 - (a) 1st I.T.O., Salary Circle, Nagpur.
 - (b) 2nd I.T.O., Salary Circle, Nagpur.
 - (c) 2nd I.T.O., Salary Circle and Refunds, Nagpur.
 - (d) 3rd I.T.O., Salary Circle, Nagpur.
11. I.T.O., Refund Circle, Nagpur.
12. I.T.O., Special Estate Duty-Cum-Incometax Circle, Nagpur.
13. I.T.O., Assessment-I, Nagpur.
14. I.T.O., Assessment-II, Nagpur.
15. I.T.O., Assessment-V, Nagpur.
16. I.T.O., Assessment-VIII, Nagpur.
17. I.T.O., Administration, Nagpur.
18. I.T.O., Collection, Nagpur.
19. I.T.O., City Circle: Nagpur.
20. I.T.O., City Circle & Refund, Nagpur.
21. I.T.O., Central Circle-I, Nagpur.
22. I.T.O., Central Circle-II, Nagpur.
23. I.T.O., Central Circle-III, Nagpur.
24. I.T.O., Chhindwara.

B-Range, Nagpur

1. I.T.O., C-Ward, Nagpur.
2. I.T.O., D-Ward, Nagpur.
3. I.T.O., F-Ward, Nagpur.
4. I.T.O., G-Ward, Nagpur.
5. I.T.O., Assessment-III, Nagpur.
6. I.T.O., Assessment-IV, Nagpur.
7. I.T.O., Assessment-VI, Nagpur.
8. I.T.O., Assessment-VII, Nagpur.
9. I.T.O., Assessment-IX, Nagpur.
10. Additional I.T.O., Collection, Nagpur.
11. I.T.O., Khandwa.
12. Additional I.T.O., Khandwa.
13. I.T.O., A-Ward, Khandwa.
14. I.T.O., B-Ward, Khandwa.

Where an Income-tax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the A. A. C. of the Range from whom that Income Circle, Ward or District or part thereof is transferred shall, from the date this notification shall take effect be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall take effect from 22-8-1968.

Explanatory Note.

The amendment has become necessary on account of the creation of a new Range of AAC at Ratlam and to assign appellate jurisdiction to the newly created wards/circles in the Commissioner's charge.

(The above note does not form part of the notification but is intended to be merely clarificatory).

[No. 72 (F. No. 50/68-IT)].

S. V. SUBBA RAO, Under Secy.

CORRIGENDUM

New Delhi, the 19th August 1968

S.O. 2987.—In exercise of the powers conferred by sub-section (f) of Section 121 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby direct that in its Notification No. 52 (F. No. 55/1/62-II) dated the 19th August, 1963 published as S.O. 2368 on pages 2740-42 of Part II Section 3(ii) of the Gazette of India dated the 24th August, 1963.

2. Against 17A, West Bengal III, the entry at S. No. 16 under Column 3 of the Schedule appended thereto, shall be substituted as under:—

"Special Circle—VI".

[No. 68 (F. No. 55/261/68-ITA. III).]

N. SRIRAMAMURTY, Under Secy.

CENTRAL EXCISE COLLECTORATE, KANPUR

CENTRAL EXCISE

Kanpur, the 17th August, 1968

S.O. 2988.—In exercise of the powers conferred upon me by Rules 5 of the Central Excise Rules, 1944, Collector's powers delegated under Rules 173-E, 52-A and 53 to Assistant Collectors vide this Collectorate Notification No. 3/68-Central Excises, dated the 27th May, 1968, are hereby withdrawn.

2. Notification No. 3/68-Central Excises, dated 27th May, 1968 cited above may be treated to have been cancelled.

[No. 4/68.]

V. PARTHASARATHY, Collector.

COLLECTORATE OF CUSTOMS AND CENTRAL EXCISE, COCHIN

CENTRAL EXCISE

Cochin, the 10th August 1968

S.O. 2989.—This Collectorate's Notification No. 3/68 dated 16th June 1968 delegating certain powers, in relation to the assessee governed by the provisions of Chapter VII-A of the Central Excise Rules, 1944 is hereby withdrawn.

[No. 4/68.]

D. N. KOHLI, Collector.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION**(Department of Labour and Employment)***New Delhi, the 29th July 1968***S.O. 2990.**—Whether as the Central Government was satisfied that

1. The Ghanshyam Pottery Works.
2. M/s Amin Bobbin Co.

were situated in Dehgam area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Ahmedabad in the State of Gujarat.

And whereas by virtue of their location in a sparse area, the foresaid factories were granted exemption from the payment of the employers special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in the area by the Central Government notification in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S. O. 1814, dated the 17th May, 1968.

And whereas the Central Government is satisfied that the insurable population of the Dehgam area in the district of Ahmedabad in the State of Gujarat has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification, namely:—

"In the schedule to the said notification, serial No. 1 relating to Ahmedabad and the corresponding entries against the said serial number in columns 2 to 4 shall be omitted."

[No. F. 6(34)/68-HI]

New Delhi, the 1st August 1968

S.O. 2991.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the Government Press, Rajkot and the Government Photo Litho Press, Ahmedabad in implemented areas, hereby exempts the said presses from the payment of the Employer's Special Contribution leviable under Chapter VA of the said Act for a further period up to and inclusive of the 30th June, 1969.

[No. F. 6(69)/68-HI]

S.O. 2992.—Whereas the Central Government was satisfied that the Sub-Station, Mysore State Electricity Board was situated in Kolar Gold Fields area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Kolar in the State of Mysore.

And whereas by virtue of its location in a sparse area, the aforesaid factory was granted exemption from the payment of the employers' special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the notification of the Government of India in the late Department of Social Security No. S.O. 946, dated the 19th March, 1965 published in the Gazette of India dated the 27th March, 1965 on page 1042.

And whereas the Central Government is satisfied that the insurable population of the Kolar Gold Fields area in the district of Kolar in the State of Mysore has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification; namely:—

In the Schedule to the said notification, against serial No. 7 relating to Kolar, the entries in columns 2, 3 and 4 shall be omitted.

[No. F. 6 (67)/68-HI]

S.O. 2993.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), and having regard to the location of the factory in an implemented area, the Central Government hereby exempts the Workshop belonging to the Municipal Corporation, Indore, from the payment of the employer's special contribution leviable under Chapter V of the said Act for a further period up to and including the 28th June, 1969.

[No. F. 6(59)/68-HI]

New Delhi, the 2nd August 1968

S.O. 2994.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the Steam Laundry attached to the K. G. Hospital, Visakhapatnam in an implemented area, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a further period of one year with effect from the 1st August, 1968.

[No. F. 6(7)/68-HI.]

S.O. 2995.—Whereas it appears to the Central Government that the employer and the majority of employees in relation to the establishment known as Messrs Synpro Industries, 50/51, Industrial Estate, Indore-3 (Madhya Pradesh), have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 30th day of June, 1968.

[No. 8/63/68/PF-II.]

New Delhi, the 3rd August 1968

S.O. 2996.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Plastic Sales Agency, Unit No. 109, Owners Industrial Estate, 505, Pitamber Lane, Mahim, Bombay-16, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by Sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirtieth day of April, 1968.

[No. 8/102/68/PF-II.]

S.O. 2997.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factory, namely, Sewage Purification Plant Colaba, Bombay, owned by the Bombay Municipal Corporation in an implemented area, hereby exempts the said factory from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a further period up to and including the 2nd April, 1969.

[No. F. 6(49)/66-HI.]

S.O. 2998.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Sarvashri V. Viswanatha Naick and K. Surendran Nair to be Inspectors for the whole of the State of Kerala for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of, the Central Government or in relation to any establishment connected with a railway Company, a major port, a mine or an oil field or any controlled industry.

[No. 21(3)/68-PF.I]

S.O. 2999.—Whereas the Central Government was satisfied that M/s. Packaged Thermal Plant, was situated in Farakha Barrage area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Murshidabad in the State of West Bengal.

And, whereas by virtue of its location in a sparse area, the aforesaid factory was granted exemption from the payment of the employers' special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the notification of the

Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 2408, dated the 27th June, 1968.

And, whereas the Central Government is satisfied that the insurable population of the Farakha Barrage area in the district of Murshidabad in the State of West Bengal has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby rescinds the said notification.

[No. F. 6(38)/68-HI-II.]

S.O. 3000.—Whereas the Central Government was satisfied that Central Workshop, Farakha Barrage Projects was situated in Farakha Barrage area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Murshidabad in the State of West Bengal.

And, whereas by virtue of its location in a sparse area, the aforesaid factory was granted exemption from the payment of the employers' special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the notification of the Government of India in the late Department of Social Security S.O. No. 3001, dated the 16th September, 1965; ..

And, whereas the Central Government is satisfied that the insurable population of the Farakha Barrage area in the district of Murshidabad in the State of West Bengal has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification namely :—

In the Schedule to the said notification Sl. No. 2 and the entries relating there to shall be omitted.

[No. F. 6(38)/68-HI-I.]

S.O. 3001.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 30th April, 1968, section 6 of the said Act shall, in its application to Messrs. Plastic Sales Agency, Unit No. 109, Owners Industrial Estate, 505, Pitamber Lane, Mahim, Bombay-16, be subject to the modification that for the words 'six and a quarter per cent', the words 'eight per cent' were substituted.

[No. 8(102)68-PF-II.]

New Delhi, the 20th August 1968

S.O. 3002.—In exercise of the powers conferred by the first proviso to Section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government after making necessary enquiry, hereby specifies that the said Section 6, in its application to Messrs. Lalbhai Exports Limited, Contractor Building, 1st floor, Nicol Road, Ballard Estate, Bombay-1 BR and at Arvind Mills Premises, Naroda Road, Ahmedabad-2 with effect from the 31st December, 1967, shall be subject to the modification that for the words 'six and a quarter per cent', the words 'eight per cent' shall be substituted.

[No. 8(86)/68-PF-II.]

S.O. 3003.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as The Albion Stores, 42, Brigade Road, Bangalore-1 have agreed that the provisions of the Employees Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 30th day of June, 1968.

[No. 8/77/68-PF-II.]

New Delhi, the 21st August 1968

S.O. 3004.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Lalbhai Exports Limited, Contractor, Building, 1st Floor, Nicol Road, Ballard Estate, Bombay-1, BK and at Arvind Mills Premises, Naroda Road, Ahmedabad-2 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty-first day of December, 1967.

[No. 8/86/68-PF-II.]

New Delhi, the 22nd August 1968

S.O. 3005.—In exercise of the powers conferred by section 99A of the Employees' State Insurance Act, 1948 (34 of 1948), and in supersession of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 346 dated the 16th January, 1968, the Central Government hereby directs that for the purpose of assessing the employer's special contribution payable under the notification of the Government of India in the late Ministry of Labour No. S.R.O. 279 dated the 6th February, 1952, (and for determining the amount of contributions payable under section 45A of the Employees' State Insurance Act, 1948) in respect of the employees of a factory or establishment where for any period an employer does not submit the periodical returns required under the Act and the said notification and where an inspection of the employer's records for such period has not been made, the wages of the employees be calculated at the rate of Rs. 150.00 (Rupees one hundred and fifty only) per employee per mensem, for arriving at the total wage bill and for determining the employees' weekly contribution under the First Schedule of the Employees' State Insurance Act, 1948.

[No. F. 20(44)/68-HI.]

S.O. 3006.—In pursuance of clause (c) of sub-paragraph (I) of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby appoints Shri H. K. Shrivastava as a member of the Regional Committee for the State of Uttar Pradesh in the vacancy caused by the resignation of Shri Ganpat Rai Vaid, and makes the following further amendment in the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 1703 dated the 29th June, 1960, namely:—

In the said notification, for the existing entries in the first Column against item (5), the following entries shall be substituted, namely:—

"Shri H. K. Shrivastava, Director, Messrs. Raza Textiles Limited, Rampur".

[No. 12(5)/64-PF. II]

New Delhi, the 26th August 1968

S.O. 3007.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri R. P. Singh to be an Inspector for the whole of the State of Bihar for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of, the Central Government or in relation to any establishment connected with a railway company, a mine or an oil-field or any controlled industry.

[No. 20(11)/68-PF.I.]

New Delhi, the 28th August 1968

S.O. 3008.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as the Consumers' Co-operative Stores Limited, Aberdeen, Port Blair and Branch at Haddo, Chatham P.O. Port Blair have agreed that the provisions of the Employees' Provident Funds Act 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment;

This notification shall be deemed to have come into force on the 30th day of June, 1968.

[No. 8/81/68-PF.II.]

S.O. 3009.—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby appoints the Secretary to the Government of Orissa, Labour, Employment and Housing Department, as the Chairman and the Labour Commissioner, Government of Orissa, Deputy Secretary to the Government of Orissa, Finance Department, and Sarvashri F. C. Dhariwal, S. K. Dutta and R. K. Samantrai as members of the Regional Committee for the State of Orissa and makes the following further amendments in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1295 dated the 9th April, 1965, namely:—

In the said notification—(1) against serial numbers 1 to 5 for the existing entries in the first column, the following entries shall respectively be substituted, namely:—

"The Secretary to the Government of Orissa, Labour, Employment and Housing Department, Bhubaneswar.

The Labour Commissioner, Government of Orissa, Bhubaneswar.

The Deputy Secretary to the Government of Orissa, Finance Department, Bhubaneswar.

Shri F. C. Dhariwal, Vice-President and General Manager, Orient Paper Mills, Brajaraj Nagar.

Shri S. K. Dutta, General Manager, Orissa Textile Mills, Choudwar, Cuttack."

(2) against serial No. 8 for the entry in the first column the following entry shall be substituted, namely:—

"Shri R. K. Samantrai, M.L.A., President Rourkela Mazdoor Sabha, Rourkela."

[No. 12(5)65-PF.II.]

S. O. 3010.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories specified in the Schedule annexed hereto in sparse areas in the State of Madras, hereby exempts the said factories from the payment of the employer's special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of the said Act in the said areas.

SCHEDULE

| Sl. No. | Name of District | Name of Area | Name of the Factory |
|---------|------------------|------------------|--|
| 1 | 2 | 3 | 4 |
| 1 | Coimbatore | Sholayar Nagar. | (i) Government Field Machinery Repair-cum-servicing Yard, Pollachi Taluk. (ii) Government Auto Shop, Sholayar Dam Sholayarnagar Post, Pollachi Taluk. |
| | | Velampalayam | Modern Casting and Associates, Velampalayam Post (via) Tirupur. |
| | | Kasipalayam | Bharat Metal & Alloys Thadappalli, Gobichettipalayam Taluk. |
| 12 | Chingleput | Chembarambakkam. | Government Mechanised Brick Unit, Thirumazhisai, (via) Poonamallee. |
| 3 | Madurai. | Periyakulam | P. P. Seenappa Chettiar & Sons, Thenkarai. |
| | | Oddanchatram | Rajalakshmi Electricals & Industries, Palani Road, Dindigul Taluk. |
| 4 | Ramnad | Sattur. | Rajalakshmi Nib Works, 4/143, Bypass Road. |

| 1 | 2 | 3 | 4 |
|---|-------------------|--|---|
| 5 | Salem | Thulukkanur Minampalli . . . Onjakorai . . . Kallakurichi . . | Sri Jayalakshmi Sago Factory. Muneeswara Sago Factory. Balasubramania Power Loom Factory, 515' Sankari. Varadharaja Sago Factory, Namakal Taluk. |
| 6 | Tanjore | Mayuram Koradacheri . . . | The Thanjavur District Co-operative Spinning Mills Ltd., Manalmedu Post. Tamil Nad Congress Nirmana Thitta Committee Hand made paper unit, Kilaralam Post. |
| 7 | Tirunelveli . . . | Karungulam . . . Pavoorchatram | Handmade paper Unit, Seidunganallur Post, Vitalapuram Panchayat, Srivailkundam Taluk. Sree Murugen Tile Works, Surandai Road, Tenkasi Taluk. |

[No. F. 6(27)/68-HI]

New Delhi, the 29th August 1968

S.O. 3011.—In exercise of the powers conferred by sub-section (2) of section 5D of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 624 dated the 12th February, 1968, the Central Government hereby appoints Shri R. K. Rastogi, as the Regional Provident Fund Commissioner for the whole of the State of Assam vice Shri A. K. Bhattacharjee, to assist the Central Provident Fund Commissioner in the discharge of his duties.

[No. 17(88)/65-PF.1(i).]

S.O. 3012.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. 625 dated the 12th February, 1968, the Central Government hereby appoints Shri R. K. Rastogi, to be an Inspector for the whole of the State of Assam for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 17(88)/65-PF.I(ii).]

CORRIGENDUM

New Delhi, the 29th July 1968

S.O. 3013.—In the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S. O. 1814, dated the 17th May, 1968, appearing on pages 2368—2370 of the Gazette of India Part II, Section 3, Sub-Section (ii) dated the 25th May, 1968, in the Schedule, against serial No. 5, column 4,

for "(iii) M/s Jogi Saw Mills".

read "(iii) M/s Yogi Saw Mills".

[No. F. 6(34)/68-HI]

New Delhi, the 2nd August 1968

S.O. 3014.—In the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2213 dated the 14th June, 1968 published on page 3098 of the Gazette of India Part II, Section 3(ii)

dated the 22nd June, 1968 in the last line of the second paragraph for "11th March, 1968" read "11th March, 1966".

.. [No. F. 6(26)/69-HI.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 1st August 1968.

S.O. 3013—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Chandigarh, in the industrial dispute between the employers in relation to the Caledonian Insurance Company, New Delhi and their workmen, which was received by the Central Government on the 20th July, 1968.

BEFORE SHRI ISHWAR DAS PAWAR, INDUSTRIAL TRIBUNAL, GOVERNMENT OF INDIA, CONSTITUTED UNDER CLAUSE (d) SUB-SECTION (1) OF SECTION 10 OF THE INDUSTRIAL DISPUTES ACT.

REFERENCES NOS. 2/c AND 6/c.

In the matter of Industrial Dispute
BETWEEN

The workmen and the management of Ms/. Caledonian Insurance Company, New Delhi.

PRESENCE :

Shri K.K. Khullar & Shri P.C. Bose *for the Management.*

Shri Madan Mohan for the workmen

AWARD

By virtue of an order dated 3rd January, 1967 the Central Government referred the following items of dispute to this Tribunal consequent upon an industrial dispute having come into existence between the employers in relation to the Caledonian Insurance Company, New Delhi and their workmen, for adjudication :—

1. Whether the benefits of gratuity and leave given by the Caledonian Insurance Company, New Delhi to the peons and drivers employed by them need improvement ?
2. If so, to what extent and from what date ?

By another order of the 7th July, 1967 the Central Government further referred the following item of dispute between the same parties, to this Tribunal for adjudication :

Whether any or all of the existing conditions of service mentioned below relating to peons and drivers employed by Caledonian Insurance Company, New Delhi, need any improvement ? If so, to what extent and from what date ?

1. Pay scales ;
2. Dearness allowance ;
3. Overtime allowance ;
4. Age of retirement ;

In response to the notices issued to the parties they appeared before the Tribunal through their representatives and filed statements of their respective cases. The pleadings of the parties filed in both the cases give rise to the following issues :—

(Ref. No. 2/c)

1. Whether the benefits of gratuity and leave given by the Caledonian Insurance Company, New Delhi to the peons and drivers employed by them need improvement ?
2. If so, to what extent and from what date.
3. What is the affect on this reference of the provisions of the Delhi Shops and Establishments Act and on the claim of the workmen for improvement under the leave facilities ?

(Ref. No. 6/C).

1. Whether the dispute was not espoused by a sufficient number of workmen or by a Union representing substantial number of workmen?
2. Whether any or all of the existing conditions of service mentioned below relating to peons and drivers employed by Caledonian Insurance Company, New Delhi, need any improvement? If so, to what extent and from what date?
 1. Pay scales ;
 2. Dearness allowance;
 3. Overtime allowance;
 4. Age of retirement;

Issue No. 3 of the first reference was decided by my order dated 9-8-1967.

On the 29th of September, 1967, the representatives of the parties made statements that the two references be taken up together as evidence in both of them was more or less common. Accordingly the two cases were ordered to be taken up together. This award will, therefore, dispose of both the references

After evidence had been partly recorded the representatives of the parties prayed for time as the parties were negotiating for a settlement. For this purpose a few adjournments were granted and ultimately the parties succeeded in arriving at a mutual settlement on all the points involved in both the references. The settlement is Ext. ARI and it is signed by Shri P.C. Bose, Branch Manager, of the Company for and on behalf of the management and by Sarvashri Ram Singh, Dalip Singh and Sham Singh for and on behalf of the workmen. The terms and conditions of this settlement are as under :—

Scales of Pay

The following scales of pay are agreed w.e.f. 1-10-1965.

- | | |
|------------------------|-------------------------|
| (i) Peons | Rs. 30-2-40-3-70-4-90. |
| (ii) Drivers | Rs. 35-2-65-3-95-4-115. |

Adjustment.—Employees will be fitted into the revised scales of pay and where an employee whose salary on 30-9-65 does not fit in a step in the new scale, he will be fitted into the new scale of basic salary at the point next above the basic salary actually drawn by him on 30-9-65. One adhoc increment effective 1-10-65 will be granted. After the above adjustments, all the employees will get their usual annual increments according to the revised pay scale on and from the date they are allowed their annual increments as at present.

Dearness Allowance.—It is agreed that a scheme of Dearness allowance for subordinate staff be introduced as follows w.e.f. 1-10-1965 :—

When the All-India Consumer Price Index Number Base 1949-100 is at the figure 175, the members of the subordinate staff would be paid dearness allowance of Rs. 95/- per month and for every rise and fall of five points in the index figure, there would be an increase or decrease in the quantum of dearness allowance by Rs. 5/-.

Working hours & Overtime.—It is agreed that the Peons would be required to attend the office 1/2 an hour earlier and leave 15 minutes later every day beyond the usual office hours. As such, the Peons' hours of work will be :

- | | |
|------------------------------|---|
| Mondays to Fridays | 9.30 a.m. to 5.45 p.m. with one hour break for lunch. |
| Saturdays | 9.30 a.m. to 1.45 p.m. |

The working hours of the drivers will be :

- | |
|-------------------------|
| 9.00 a.m. to 12.30 p.m. |
| 1.00 p.m. to 2.30 p.m. |
| 4.00 p.m. to 7.00 p.m. |

For work beyond the normal hours of work, as prescribed above, overtime allowance will be paid at the rate prescribed in the Delhi Shops and Establishments Act but for the purpose of calculation of Overtime, a cushion period of 15 minutes would be deducted before overtime can be claimed and no overtime will be payable for this cushion period, on that particular day.

Medical Aid.—The Company agrees to reimburse on production of a medical certificate and/or the receipts for prescription prescribed by a registered doctor, an amount upto but not exceeding Rs. 75/- in any one year. It is clearly understood that this benefit will apply only to the employee himself. It is also agreed that as a special case Shri Sham Singh would be re-imbursed an amount for which he has already submitted medical bills.

Gratuity.—Effective 1st October, 1965 gratuity will be paid to permanent members of the subordinate staff who are subscribers to the Provident Fund (excluding part-time or temporary employees), subject in all cases to a maximum of 15 month's last basic salary at the following rates:—

- (i) On normal retirement or reaching the age of superannuation, or at death, or on permanent total incapacity at the rates of one month's last basic salary for every year of service completed with the company.
- (ii) Subject to an employee completing ten years of service with the company. On retrenchment (where retrenchment compensation is payable under the Industrial Disputes Act) at the rate of half a month's last basic salary for every completed year of service with the company.
- (iii) No gratuity will be paid to an employee who is dismissed for misconduct.
- (iv) On termination of service by the company for any other reason not specifically provided for above at the rate of one month's last basic salary for every completed year of service with the company.

Any gratuity payable under the above Rules plus the total amount to which the employee is entitled under the Provident Fund shall be the total retiral benefits payable by the company and there will be no other form of retrospective adjustment.

Retirement Age.—It is agreed that the age of retirement shall be 58 years and the employee concerned shall be retired on 7th April following their attainment of the age of 58. The date of birth already on records of the Company in any manner whatsoever shall be conclusive proof of age. The Company retains the right to retire an employee earlier on medical grounds.

Provident Fund.—The present rules will continue.

Leave—(a) Privilege Leave.—Privilege leave granted will be inclusive of Saturdays and Sundays or public holidays notified under the Negotiable Instruments Act which may intervene.

Privilege Leave Entitlement

| | | | | | | |
|-------------------|---|---|---|---|---|--|
| 14 days per annum | . | . | . | . | . | after completion of one year's service and until completion of seven years' service. |
| 21 days per annum | . | . | . | . | . | after completion of 7 years' service and until the completion of 15 years service. |
| 28 days per annum | . | . | . | . | . | after completion of 15 year's service. |

An employee may be permitted, subject to the exigencies of the office to accumulate two year's leave according to the settlement of leave entitlement specified above.

(b) Casual-cum-sick leave.

(i) A maximum of 12 days casual-cum-sick leave will be allowed in each calendar year to each employee with full pay (basic plus D.A.). Where casual leave is sought it shall not be granted for more than two days at a time and such leave shall not be permitted to be prefixed or suffixed to holidays or to any other kind of leave.

(ii) Where leave is sought on grounds of sickness, it will be considered only when the request is accompanied by a medical certificate from a doctor acceptable to the company.

(iii) Casual and sick leave will be non-accumulative.

Bonus.—Subject to any prohibition of the Government of India, a permanent employee in the service of the company at the time Bonus is paid will be entitled to a bonus each year equivalent to one and a half month's basic salary, except where such employee has not completed one year's service as at the time of payment when the Bonus shall be paid on a *pro rata* basis for the period commencing from the date of his appointment upto 31st December. Where a probationer is in the

service of the Company at the time of the payment of the Bonus but has not been confirmed on subsequent confirmation before 31st December in that year he will be entitled to receive a *pro rata* bonus at that time calculated from the date of his first appointment to the 31st December.

Uniform.—The present practice will continue.

Confirmation

- (a) *Temporary staff.*—To temporary employees who have been engaged for work which is of essentially a temporary nature likely to be finished within a limited period, none of the benefits under this agreement will apply. Both the parties agree that temporary employees if any will be confirmed on completion of six month's continuous service and they would be entitled to benefits under this settlement on confirmation.
- (b) *Probationers.*—In the case of employees appointed on probation, the probationary period would be maximum for six months.

All other demands mentioned in the charter of demands are deemed to be settled.

It is agreed that this settlement is a settlement under section (2)P of the Industrial Disputes Act, 1947. In consideration of the demands settled by the management the employees agree that they shall not raise any demand involving any financial burden and implication on the company during the period this settlement is in operation.

It is agreed that this settlement shall remain in force for a minimum period of two years from the date of signing i.e. 22-6-1968 and shall continue to remain in operation even thereafter unless terminated by either party by giving the other party two calendar months written notice of its intention to terminate the settlement in accordance with law.

Hence I give an award in terms of the settlement reproduced above.

There shall be no order as to costs.

6th July, 1968.

(Sd.) ISHWAR DAS PAWAR,
Industrial Tribunal,
Government of India, Chandigarh.
[No. 70(1)/66-LRIV]

New Delhi, the 2nd August 1968

S.O. 3016.—Whereas the Central Government, having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947) declared by the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 552, dated the 3rd February, 1968, any service in, or in connection with, the working of, any major port or dock, to be a public utility service for the purposes of the said Act, for a period of six months from the 5th February, 1968;

And whereas the Central Government is of the opinion that public interest requires extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said service to be a public utility service for the purposes of the said Act for a further period of six months from the 5th August, 1968.

[No. F. 1/55/68-LRI]

New Delhi, the 19th August 1968

S.O. 3017.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal, Dhanbad in the matter of an application under Section 33A of the said Act from Shri Ganguli Singh B. No. 5055/WW, Sepoy, Watch and Ward Department C/o Mosaboni Mines (Singhbhum), which was received by the Central Government on the 6th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT DHANBAD

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947

COMPLAINT NO. 1 OF 1968

PARTIES:

Shri Ganguli Singh, B.No. 5055/WW,
Sepoy, Watch & Ward Deptt.,
C/o Mosaboni Mines, (Singhbhum) Complainant.

Vrs.

M/s. Indian Copper Corporation Ltd.,
P.O. Mosaboni Mines,
Dist. Singhbhum Bihar Opposite Party.

PRESENT:

Shri Kamla Sahai,
Presiding Officer.

APPEARANCES:

For the Complainant : None.
For the Opposite Party : Shri K. C. Goel, Legal Officer
STATE : Bihar INDUSTRY : Copper

Dhanbad, dated the 30th July, 1968

AWARD

This is a complaint under section 33A of the Industrial Disputes Act, 1947. It was originally filed before this Tribunal but was later transferred by the Ministry to the Jabalpur Tribunal, vide its order No. 2/25/67-LR-II dated the 25th April, 1967. It was registered there as complaint No. 16 of 1967. The Complaint was re-transferred to this Tribunal, vide Government Order No. 24/36/66-LR1, dated the 3rd February, 1968.

2. Shri K. Rama Murthi, (M.W. 1) has been examined to prove that the dispute between the parties has been settled under a document of settlement dated the 4th August, 1967. The management has filed the settlement in original and it has been marked as Ext. M.1. The workman or the union has not appeared. According to the settlement, Shri Ganguli Singh was given one day off on 7-6-65 but it was provided that that would not form a precedent.

3. I accept the settlement and give an award in accordance therewith. A copy of the settlement will form part of the award. It may be submitted to the Central Government.

(Sd.) KAMLA SAHAI,
Presiding Officer.

Memorandum of Settlement between the Management of Indian Copper Corporation Ltd., and their workmen of Mosaboni Mines represented by the Mosaboni Mines Labour Union, in respect of the Industrial Dispute pending adjudication before the Industrial Tribunal-cum-Labour Court (Central) at Jabalpur.

NAMES OF PARTIES :

Representing the Management

1. Mr. T. C. W. H. Blay, Ag.M.S.
2. Mr. K. Ramamoorthi—L.O.

Representing by workmen

1. Mr. H. B. Singh, Asstt. General Secretary, M.M.L.U.
2. Mr. S. K. Das, Asst. Secretary, M.M.L.U.
3. Mr. S. N. Aditya, Asstt. Secretary, M.M.L.U.

Short recital of the case

Whereas in its letters No. MMLU/103/MS/64 dated 3-10-64 and No. MMLU/G-3A(CO) 64.3 dated 8-11-64 the Mosaboni Mines Labour Union raised Industrial Disputes for reinstatement of Sri Bhupati Sen (Badge No. 5998) and for supply of free electricity and fuel to Sri U. C. Patnaik (Badge No. 1706) respectively.

And whereas these disputes were referred by the Government of India in the Ministry of Labour, Employment and Rehabilitation to the Central Government Industrial Tribunal for adjudication.

And whereas during the pendency of the aforesaid references before the Industrial Tribunal, various applications u/s 33(2) (b) and u/s 33(3) (b) of the Industrial Disputes Act have been made by the management and complaints u/s 33A of the Industrial Disputes Act have been made by certain workmen.

And whereas the aforesaid two References are pending as No. 72 of 1967 and No. 82 of 1967 before the Industrial Tribunal-cum-Labour Court (Central) at Jabalpur and the cases under section 33 and 33A I.D. Act are also pending before the same Tribunal and numbered as detailed in the Schedules 'A' and 'B' annexed hereto.

And whereas the Parties hereto, with a view to create better understanding, promote healthy Industrial Relations and maintain Industrial peace, after repeated discussions have arrived at an amicable settlement on this Friday, the 4th of August 1967 on the following terms and conditions :—

Terms of settlement

1. In the main reference case No. 72 of 1967, it is agreed that Sri Bhupati Sen shall be reinstated as a special case and is allowed one month's time to resume duty. The intervening absence from the date of Sri Bhupati Sen's dismissal till the date of his resuming duty under this settlement shall be treated as special leave with loss of all benefits. Sri Bhupati Sen's wages shall be the same as he was getting at the time of his dismissal.
2. In respect of the cases u/s 33A I.D. Act, it is agreed as follows:—
 - (i) Case No. 15 of 1967—The complaint of Sri Abdul Haque Khan (B. No. 461/E) shall not be pressed before the Tribunal.
 - (ii) Case No. 16 of 1967—Sri Ganguli Singh (B. No. 5055/WW) shall be allowed one day off for 7-6-65 but this shall not form a precedent.
 - (iii) Case No. 17 of 1967—The complaint of Sri Jitral Mahali (B. No. 5221) shall not be pressed before the Tribunal.
 - (iv) Case No. 18 of 1967—Sri J. N. Bhattacharjee (B. No. 1400/E) shall be given a special Increment of 42 Paise with effect from 1-8-67.
 - (v) Case No. 19 of 1967—Sri S. B. Barua (B. No. 5724) shall be paid Acting Allowance for 18 days, i.e. from 22-2-1965 to 25-2-1965 and from 1-3-1965 to 14-3-1965.
 - (vi) Case No. 20 of 1967—The complaint of Sri M. M. Pati (B. No. 6236) shall not be pressed before the Tribunal.
 - (vii) Case No. 21 of 1967—Sri Periappa Naidu (B. No. 7336) shall be allowed leave for the year 1965.
 - (viii) Case No. 23 of 1967—Sri R. Ramswamy (B. No. 3429) shall be allowed leave for the year 1965.
 - (xi) Case No. 24 of 1967—The Warning chit No. 24003 issued to Sri Ram Bilas Singh (B. No. 3819) for absence without leave for 2 days i.e., 18th & 19th of November 1966, shall be cancelled.
3. In respect of the cases u/s 33(2)(b) and 33(3)(b) of the I.D. Act it is agreed as follows :—
 - (i) Case No. 18 of 1967—Management's application for approval of dismissal of Sri Mosu (B. No. 1228) shall not be opposed before the Tribunal. However, the dismissal shall not be considered as a bar against his seeking fresh employment.
 - (ii) Case No. 20 of 1967—Sri Muchi Ram (B. No. 7582) shall be re-employed in his former designation (sweeper) by 14-9-1967 in the usual way.
 - (iii) Case No. 27 of 1967—Sri Dhananjoy Pator (B. No. 5619) shall be re-employed in his former designation (Mucker) by 14-10-1967 in the usual way.
 - (iv) Case No. 31 of 1967
Case No. 35 of 1967
Case No. 47 of 1967 } Sri Muneswar (B. No. 6495) shall be re-employed in his former designation (Trammer) by 14-10-1967 in the usual way.
 - (v) Case No. 39 of 1967—The Management's application for approval of the dismissal of Sri S. K. Munu (B. No. 5974) shall not be opposed before the Tribunal. However, the dismissal shall not be considered as a bar against his seeking fresh employment, and he may apply to the Mines Superintendent for consideration of his re-employment.
 - (vi) Case No. 40 of 1967—Sri Bhuban Narayan Deo (B. No. 7981) shall be re-employed in his former designation (Timber Mazdoor) by 14-10-1967 in the usual way.

- (vii) Case No. 45 of 1967—The Management's application for approval of the action taken against Sri Shib Shanker Naik (B. No. 7989) shall not be opposed before the Tribunal.
 - (viii) Case No. 46 of 1967—Punishment of 4 days suspension issued to Sri Ram Bilas Singh (B. No. 3819) for absence without leave from 21-3-66 to 3-4-66 shall be set aside but the final warning issued for the same shall stand.
 - (ix) Case No. 49 of 1967—Sri Abdul Karim (B. No. 4664) shall be re-employed in his former designation (Mucker) by 14-10-67 in the usual way.
 - (x) Case No. 54 of 1967—Sri Naiki Hoe (B. No. 7722) shall be re-employed in his former designation (Timber Mazdoor) by 14-10-67 in the usual way.
 - (xi) Case No. 57 of 1967—Sri Parmanand Ghazi (B. No. 1811) shall be re-employed in his former designation (Sweeper) by 14-9-1967 in the usual way.
 - (xii) Case No. 72 of 1967—Sri Lal Mohan Singh (B. No. 2237) shall be re-employed in his former designation (Blaster Helper) by 14-10-1967 in the usual way.
 - (xiii) Case No. 76 of 1967—Punishment of 4 days suspension issued to Sri Sheo Prasad Singh (B. No. 1768) for absence without leave in the year 1966 shall be set aside but the final warning issued for the same shall stand.
 - (xiv) Case No. 78 of 1967—Sri Phul Chand Pator (B. No. 770) shall be re-employed in his former designation (M. Mazdoor) by 14-10-1967 in the usual way.
 - (xv) Case No. 82 of 1967—Sri Basudeo Pator (B. No. 8023) shall be re-employed in his former designation (U/G Fitter Helper) by 14-10-1967 in the usual way.
 - (xvi) Case No. 84 of 1967—The Management's application for the approval of the dismissal of Sri Amulya Rana (B. No. 4916) shall not be opposed before the Tribunal. The dismissal, however, shall not be a bar against his re-employment and Sri Rana may apply to the Mines Superintendent for consideration of his re-employment.
4. The parties could not agree on any settlement in respect of the main reference No. 82 of 1967, case u/s 33A I.D. Act No. 22 of 1967 and the cases u/s 33 I.D. Act., No. 24 of 1967, No. 59 of 1967, No. 60 of 1967, No. 61 of 1967, No. 62 of 1967, No. 68 of 1967 and No. 69 of 1967 which remain unsettled to be decided by the Tribunal.
 5. All other applications u/s 33 I.D. Act pending before the Tribunal and not settled hereto before shall not be opposed or contested before the Tribunal and shall be decided in favour of the management.
 6. Both the parties shall jointly apply to the Industrial Tribunal cum-Labour Court (C), Jabalpur, to take this settlement on record and dispose of the cases settled herein in terms of this compromise.

1. Representing the Management.

Sd/- T. C. W. H. BLAY

Sd/- K. RAMAMOORTHY

2. Representing the Union.

Sd/- H. B. SINGH ARSI

Sd/- S. N. ADITYA

Sd/- S. K. DAS

Dated: 4th August 1967.

Mosaboni Mines.

Witnesses

1. Sd/- M. N. SAHAI

2. Sd/- MOBARAK AHMED.

New Delhi, the 27th August 1968

S.O. 3018.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the South British Insurance Company Limited Bombay and their workmen, which was received by the Central Government on the 21st August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

REFERENCE NO. CGIT-82, OF 1964

PARTIES:

Employers in relation to South British Insurance Co. Ltd., Bombay

AND

The General Insurance Employees' Union.

PRESENT:

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the employers:—Shri N. V. Phadke, Advocate with Shri P. K. Rele, Solicitor and Shri A. L. Gabriel, Assistant Manager of the company.

For the workmen: (General Insurance Employees' Union).—Shri S. A. Neemuchwalla, Shri J. D. Kurup, Shri K. T. Sule and Shri Gadkari, Advocates with Shri K. S. B. Pillai and Shri J. G. Kothare, General Secretary and Vice-President respectively of the General Insurance Employees' Union, Western Zone.

STATE:—Maharashtra.

INDUSTRY:—General Insurance.

Bombay, dated 31st July, 1968

AWARD

By Order No. 74(2)/64-LRIV dated 29th August, 1964 the Government of India in the Ministry of Labour and Employment in exercise of their powers under section 10(2) of the Industrial Disputes Act referred to this Tribunal an industrial dispute between the employers in relation to the South British Insurance Co. Ltd., Bombay and the General Insurance Employees' Union in respect of the matters specified in the following schedule to the said order:—

SCHEDULE

"Whether the discharge from service of Shri T. K. R. Pillai, is justified? If not to what relief, if any, is he entitled?"

2. The South British Insurance Co. Ltd., Bombay (hereinafter referred to as "the company") is incorporated in New Zealand at Auckland and in India has its head office at Calcutta and branch offices at Bombay and other places. The employees of the Bombay branch of this company are the members of the General Insurance Employees' Union and Shri T. K. R. Pillai whose discharge from service is the subject matter of this reference is a member of the South British group of the General Insurance Employees' Union, which is hereinafter referred to as "the Union". It is alleged that Shri Pillai is the founder member of this group and he was also its Secretary and at the time of his discharge on 18th June, 1964 he was a member of the group committee of the union.

3. The facts and circumstances alleged to have led to the discharge of the workman Shri Pillai and the present dispute may be stated in brief as follows.

4. Shri Pillai joined the company in the year 1950 and has been in the continuous service of the company since then. At the time of his discharge he was working as a clerk-cum-typist in the fire department and one Shri Srinivasan who is the local Fire Manager of the company in charge of the fire department was the superior officer of Shri T. K. R. Pillai. On the 8th April, 1964 in the evening at about 4.45 p.m. Shri D'Souza a clerk of the accounts department went to Shri Srinivasan and told him that his department was having Mahindra and Mahindra's debit note one copy short, whereupon Shri Srinivasan asked him to get it prepared from the typist Shri Pillai. Shri D'Souza went to Shri Pillai but shortly returned to Shri Srinivasan and told him that

Shri Pillai was not willing to make the copy. Thereupon Shri Srinivasan sent the debit note to Shri Pillai with instructions to make the copy but Shri Pillai refused to make the copy and coming to the table of Shri Srinivasan told him that he was not going to prepare the copy and that work should be done by the same clerk who did it in February, 1964 meaning that in February it had been prepared by Shri Rajappan Nair and he himself should not be asked to do it. Shri Srinivasan explained to him and asked him to prepare the copy but Shri Pillai refused and left.

5. The next day Shri Pillai had not made the copy and hence Shri Srinivasan again told him in the matter of the extra copy of the debit note but Shri Pillai refused to prepare the copy saying that he had told him that he was not going to do it. Shri Srinivasan again requested him to prepare the copy and when Shri Pillai refused Shri Srinivasan warned him that he would be required to report the matter to the Assistant Manager but Shri Pillai retorted that he was not going to do the copy and he was free to report the matter. Shri Srinivasan had informed the Assistant Manager Shri Gabriel about the incident of the previous day and again he approached Shri Gabriel and told him what had happened about the copy.

6. The accounts department again on the 10th April, 1964 found in the statements of accounts copies of four debit and credit notes short and hence the four debit and credit notes were also sent to Shri Srinivasan for similar attention. Thereupon Shri Srinivasan sent for Shri Pillai and first asked him about the debit note of Mahindra and Mahindra. Shri Pillai refused to do it. Shri Srinivasan again gave him an opportunity to make the additional copy of the debit note of Mahindra and Mahindra and further told him that he had received other four debit and credit notes from the accounts department for similar purpose and asked him to take the four debit and credit notes and prepare four copies. But Shri Pillai refused to make the copies and left Shri Srinivasan's table without taking the four debit and credit notes saying that he was not going to do that work.

7. The next day on the 11th of April, 1964 which was a Saturday a short time before the closing at about 12.30 P.M. Shri Pillai approached Shri Srinivasan and told him that he had made the copy of the debit note of Mahindra and Mahindra and it was with the accounts department. Hence Shri Srinivasan reported the matter to Shri Gabriel. But on Monday the 13th April, 1964 when he asked Shri Ramalingam the in-charge of the accounts department about the debit note of Mahindra and Mahindra Shri Ramalingam told Shri Srinivasan that he had checked up the matter on Saturday at the instance of Shri Gabriel and the department had not received the copy but he would again make enquiry about it. So in the presence of Shri Srinivasan he made enquiry sending for all his staff members one by one and asking them to search their baskets to ensure whether the copy of the debit note of Mahindra and Mahindra was received in the department. All the members of the staff including Shri D'Souza after searching their baskets came to him and told him that the copy of the debit note was not received. Immediately Shri Ramalingam and Shri Srinivasan went to Shri Gabriel the Assistant Manager and reported that the copy of the debit note of Mahindra and Mahindra was not received and thus it was found that Shri Pillai had bluffed to Shri Srinivasan the previous working day and both of them returned to their tables. After about 10 minutes Shri Leslie D'Souza went to Shri Srinivasan and handed over to him the copy of the debit note of Mahindra and Mahindra telling him that he had found it in his basket. When Shri Srinivasan asked as to how before few minutes he had reported to Shri Ramalingam that the copy was not traceable he simply laughed in reply and went away. Thereupon Shri Srinivasan again went to Shri Gabriel's office and handed over to him the copy of the debit note. He returned and taking the four debit and credit notes received from the accounts department on the 10th April, 1964 went to Shri Pillai and handed them over to him for making copies instructing him that the copies were urgently required by the accounts department for the statements and he should make the copies and pass them on to him before 11 A.M.

8. But in spite of the specific instructions Shri Pillai did not make the copies and as Shri Srinivasan did not receive them even by 12 O'clock he took with him Shri Ramalingam and going to Shri Pillai's desk asked him whether the copies were ready. But Shri Pillai told him that he had not made the copies. Shri Srinivasan asked Shri Pillai whether he had at least commenced writing them but found that he had not even commenced writing. As the copies were urgently required by the accounts department Shri Srinivasan took the debit and credit notes from him and handed them over to Shri Ramalingam with a request to make alternative arrangements for making the copies. Thereafter Shri Srinivasan went to Shri Gabriel and told him that Shri Pillai had not made the four copies. Shri Pillai had earlier refused to make the copies of the debit note of Mahindra and Mahindra and had not also prepared the four copies though specifically instructed and hence he was charge-sheeted for the misconducts of insubordination and disobedience the same day on the 13th April, 1964.

9. Shri Pillai gave a reply to the charge-sheet on the 23rd April, 1964 by which he admitted that Shri Srinivasan, his superior officer had instructed him to make a copy of the Mahindra and Mahindra debit note on the 8th April, 1964 at about 4.45 P.M. but he denied the misconduct and contended that as per instructions he had taken a copy of the debit note and handed it over to the accounts department on the same day, that is on the 8th April, 1964, and the charge in that respect was false and fictitious. He has also denied the incidents alleged to have taken place on the next two days—9th and 10th April, 1964—and has further denied the allegations that he approached Shri Srinivasan on the 11th April, 1964 and has contended that he did not go to Shri Srinivasan and did tell Shri Srinivasan that he had done the work.

10. Regarding the second part of the charge about disobedience of the instructions to make the copies of the four debit-credit notes Shri Pillai has admitted that Shri Srinivasan had handed over to him on the 13th April, 1964 the four debit notes for taking extra copies at about 10 A.M. but he has denied the allegation that he was instructed to make the copies and hand them over before 11 A.M. He has alleged that he was busily engaged in other work regarding the preparation of the head office return as the same was to be submitted to the auditors on the 15th and after completion of the same he was going to make the copies. But at about 12 noon Shri Srinivasan came to him and seeing that the copies were not ready he got excited and took away the papers from him and he had not committed any act or insubordination or disobedience and he was innocent. He has contended that he was an active worker of the trade union from its inception and as Shri Srinivasan had anti-union feelings he made false allegations and the charge should be dropped.

11. After the preliminaries Shri Bramley the Manager of the Bombay branch held a domestic enquiry against Shri Pillai. The company was represented by Shri Gabriel the Assistant Manager of the branch and the workman Shri Pillai was represented by the union Secretary Shri Kothare. The management examined some six witnesses. The workman also led evidence of five witnesses and after hearing the parties the enquiry officer came to a conclusion that Shri Pillai had on three successive days refused to make the copy. He had not also made the four copies and holding Shri Pillai guilty of the misconducts of insubordination and disobedience forwarded the proceedings and his findings to the head office and the principal officer of the company for India agreeing with the finding of the enquiry officer held that Shri Pillai had committed grave and serious misconducts and the appropriate punishment was dismissal. However, with a view to see that he was not deprived of certain benefits the principal officer awarded him a lesser punishment and discharged him from service by order dated 18th June, 1964.

12. Thereafter the union raised protests and demanded reinstatement of Shri Pillai. The company refused and the workmen resorted to a strike and struck work from 22nd June, 1964 to 16th July, 1964. The strike was withdrawn in pursuance of a settlement reached between the company and the union and in terms of the said settlement a joint application was made to the Central Government to refer for adjudication the justification or otherwise of the discharge of Shri T. K. R. Pillai and hence the Central Government acting under section 10(2) of the Industrial Disputes Act made this reference by its order dated 29th August, 1964.

13. The union by its statement of claim has severely criticised the labour policy of the company and has contended that Shri Bramley the present Manager of the branch was biased against the union and with a view to break the newly formed group of that union started harassing the members and particularly the active workers and in a desperate bid to disrupt and break the unity of the workman started resorting to victimisation. The Manager had charge-sheeted Shri Kothare and the committee member in the year 1963. The officers of the company also in their overwhelming desire to win the favour of the management started all sorts of harassment to the union members and indulged in provocative acts against the union officials and in the month of April, 1964 the Manager had issued a false charge-sheet against Shri T. K. R. Pillai and holding an enquiry discharged him on the basis of the perverse findings.

14. The union has contended that the allegations against the workman Shri Pillai made in the charge-sheet were false and fictitious and were cooked up by the management to discharge Shri T. K. R. Pillai from service. Shri T. K. R. Pillai joined the service of the company in the year 1950. He was the founder member of the group unit and for some time Secretary and at the time of the discharge he was also a member of the group committee and he was discharged from service by way of victimisation for his active role in the union and the management had decided and planned to dispense with the services of Shri Pillai and other active members of the union much earlier.

15. The union has alleged that the officers of the company were pursuing an anti-labour policy and Shri Srinivasan the superior officer of Shri Pillai who had made the complaint against Shri Pillai had made it at the instance and connivance of the Manager. They have not even furnished the workman with a copy of the complaint before the enquiry. The charge sheet was signed by Shri Gabriel the Assistant Manager and the enquiry was conducted by the Manager and in fact the Manager was both the prosecutor and the judge and the enquiry was not fair.

16. It has been further contended that the enquiry officer was biased and the enquiry was not impartial and his biased attitude was clear from the proceedings of the enquiry. On the very first day of the enquiry he had refused the request of Shri Kothare for the postponement of the enquiry on flimsy grounds and on the 30th April when the union representative again sought an adjournment on medical ground there was discussion about inconvenience to his witnesses and the enquiry officer passed uncalled for remarks that the evidence of witness Rajappan was material which showed unfairness on his part. He had conducted the enquiry with a prejudiced mind and had imputed wrong motives to Shri Kothare and the defence. He had given greater latitude to the management's representatives by permitting him to put coercive and embarrassing questions to the defence witnesses and violated the principles of natural justice.

17. It has been further contended that the witnesses of the management were not independent. Their evidence was full of contradictions. The enquiry officer gave undue weight to their statements and did not properly appreciate the whole evidence and the finding was perverse and against the weight of evidence on record. The enquiry officer has also based his finding on personal knowledge and has rejected the defence evidence deliberately maliciously and the enquiry was not *bona fide*. As the enquiry was not fair and proper the management had violated the principles of natural justice and as the enquiry officer was biased the order of discharge was not justified. The order should be set aside and Shri T. K. R. Pillai should be reinstated in service with full back wages and continuity of service.

18. The management has by its written statement contended that the workman Shri Pillai had wilfully refused to perform the work allotted to him by his superior officer. The work formed part of his ordinary daily duty. He was properly charge-sheeted and the enquiry officer had held a proper enquiry. At the enquiry the workman was represented by Shri J. G. Kothare who was the group secretary of the union and the workman and his representatives were given full opportunity to cross-examine the management's witnesses and to lead defence evidence. The enquiry was fair and proper and the enquiry officer found that Shri T. K. R. Pillai was guilty of the misconduct in respect of which he was charged and there existed no case for interference with the finding of the enquiry officer and his findings were not susceptible of challenge and this Court had no jurisdiction to go into the merits of the dispute or sit in appeal over the finding recorded by the enquiry officer.

19. After the statement of claim by the union the company has filed a rejoinder and has denied all the allegations regarding victimisation, anti-labour policy, *mala fides*, violation of principles of natural justice and biased attitude of the enquiry officer. It is contended that the company is an enlightened employer and is aware that the workmen are entitled to organise themselves into a trade union for the purpose of collective bargaining with the employer and has all along right from the inception of the union treated it in that spirit. It has denied that the Manager was biased against the union and that he harassed the union members and has contended that the attitude of the group committee in the year 1960 was highly reprehensible and deserved to be condemned. It is contended that in the year 1960 Shri Kothare was found reading a newspaper at his desk during office hours at which time the office of the company was open to the public for business and it did not look businesslike and hence the Manager advised him that if had free time there was a tiffin room for the purpose of reading newspapers. On that occasion Shri Kothare adopted a rude, insolvent and truculent attitude towards the Manager in the presence of the whole staff. But with a view to maintain cordial relations with the union the company did not take any action against him.

20. The company has denied that Shri Pillai was discharged from service by way of victimisation and that the decision to dispense with his services and of other active members was taken earlier and has contended that Shri Srinivasan had made only an oral complaint to the management about the insubordination and disobedience by Shri Pillai and there was no question of a copy of the complaint being furnished to the workman along with the charge-sheet. The company has denied that the complaint was made at the instance of the Manager and has contended that the enquiry officer was not biased and had held the enquiry impartially and the enquiry proceedings themselves will show that the enquiry officer was not prejudiced.

21. The management has further alleged that the union's attitude throughout the enquiry was one with a view to harass the company and the enquiry officer and the company's witnesses and delay the enquiry and this was more so in the case of witness Shri Rajappan Nair. The union had deliberately asked for adjournment knowing fully well that witness Rajappan Nair was due to go on leave and as a result of the adjournment of the enquiry the leave of Shri Rajappan was postponed. They have further contended that the enquiry officer had given full opportunity to the workman; he had also heard the parties and his finding is a well considered document and must be given due weight and this Hon'ble Tribunal cannot sit in appeal over the findings of the enquiry officer and has no jurisdiction to reassess the evidence on record. The enquiry was fair and proper. The enquiry officer was not prejudiced and there were no *mala fides* nor the enquiry was against the principles of natural justice. The discharge was not by way of victimisation or unfair labour practice but it was justified in every respect and the workman is not entitled to reinstatement or back wages or any relief.

22. Shri Shri K. T. Sule the learned Counsel on behalf of the union has argued that the relationship between the employees and the company were strained from the beginning and the company after holding the sham and bogus enquiry discharged Shri Pillai from service with a desire to victimise him for his trade union activities. The union had taken up the cause of the workman and had immediately resorted to a strike which lasted for a period of 25 days and as the present proceeding is a reference arising out of the termination of the services of an employee who was an officer of the union it stands on a different footing than the proceeding under section 33(2) which starts with an application for approval by the management.

23. It has been further argued that while referring this dispute Government has also used such wording as would widen the scope of the enquiry by the Tribunal and though there are rulings of the Supreme Court which lay down that the Tribunal will not go behind the findings in the domestic enquiry unless the domestic enquiry is proved to be unfair and improper and the termination of service is a result of victimisation, unfair Labour practice, *mala fides* etc., in this case the Tribunal shall have to examine the whole evidence and the findings of the enquiry officer and come to its own conclusion. The learned Counsel has conceded that there is no definite ruling that the scope of the enquiry in such proceedings is wider than in the application under section 33 but has contended that there are conflicting observations of their Lordships of the Supreme Court regarding the scope of the enquiry. Moreover such a plea has not been taken in any case before the Supreme Court upto this time and the learned Counsel has emphatically submitted that this Tribunal shall have to go through all the papers of the enquiry and come to its own conclusions.

24. Shri Phadke the learned Counsel on behalf of the company has argued that there is nothing special about the wording of the reference in this case. There are many references arising out of the termination of services similarly worded and in the rulings their Lordships of the Supreme Court have held that Tribunals had limited jurisdiction in such enquiries. It has been argued that the management in this case has held a fair and proper enquiry. The workman was given full opportunity to meet the case. He has also led defence evidence and no case exists for interference with the findings of the enquiry officer in favour of the workman and this Court has no jurisdiction to go into the merits of the dispute as to the discharge of Shri Pillai.

25. The Government of India has referred this industrial dispute to this Tribunal in exercise of their powers under Section 10(2) of the Industrial disputes Act. The wording of the reference is:—

"Whether the discharge from service of Shri T. K. R. Pillai is justified? If not to what relief, if any, is he entitled?"

It is clear from the statements of claim and the terms of the agreement arrived at between the parties before moving Government that the wording of the reference is in pursuance of the request made by both the parties and according to the application made by them. However, I do not find anything special about the wording or in the wording of the reference which would suggest that the scope of the enquiry is widened and this Tribunal will be justified in entering into the merits of the dispute and examining the record come to its own conclusions.

26. Learned Counsel for the management has invited my attention to the rulings reported in 1958 1 LLJ page 260 Indian Iron and Steel Co. Ltd., and another and their workmen 1959 1 LLJ page 245, 1963; 1 LLJ page 291 which show that the references had arisen out of the termination of services of the workmen after enquiry and the

wording in those cases is also similar to the wording in the present reference. In the first ruling their Lordships have observed:—

"The question which was referred to the fifth industrial tribunal was whether the discharge and/or suspension of these 74 workmen was justified; if not to what relief these men were entitled.

27. In the second ruling (1959 II LLJ p. 245 Balipara Tea Estate and its workmen) the wording of the reference as stated in the judgment is:—

(1) "Whether the dismissal of Shri N. Bora, woman mohurer of Balipara Tea Estate by the management of the said tea estate is justified?

(2) If not, is he entitled to reinstatement or any other relief in lieu thereof."

In the third ruling 1963 I LLJ page 291 (Bengal Bhatdee Coal Company and Ram Prabesh Singh and others) the reference was in the wording which is given at page 292:—

"Whether the dismissal of the following thirteen workmen of Bhatdee Colliery was justified? If not, to what relief are they entitled and from which date?"

Thus it is clear that the wording of the references in these Supreme Court rulings is quite similar to the wording in the present reference.

28. These rulings also lay down the limitation of the jurisdiction and the scope of the enquiry in references arising out of dismissal or termination of service. It has been observed in the ruling reported in 1958 I LLJ page 260:—

"Undoubtedly the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and when a dispute arises industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct the tribunal does not however act as a Court of Appeal and substitute its own Judgment for that of the management. It will interfere—

- (i) when there is a want of good faith;
- (ii) when there is victimisation or unfair labour practice;
- (iii) when the management has been guilty of a basic error or violation of a principle of natural justice; and
- (iv) when on the materials the finding is completely baseless or perverse."

Considering the wording of the references and the observations of their Lordships in these rulings it shall have to be held that the wording of the reference in the present case does not widen the scope of the enquiry.

29. The learned Counsel Shri Sule has invited my attention to the observations of their Lordships of the Supreme Court in the ruling reported in 1957 I LLJ p. 17 (Lakshmi Devi Sugar Mills Ltd. v. Ram Sarup and Ors.) and has argued that though the case in question before their Lordships was in respect of an application for approval under section 33(2) of the Industrial Disputes Act their Lordships have made clear the scope of the enquiry in an application for approval and in a reference arising out of termination of service. The learned Counsel has particularly invited my attention and has urged me to consider the observations on page 25 of this ruling in which it has been stated:—

"If the permission is granted by the authority (*i.e.* Labour Court, Tribunal, etc.) the ban would be lifted and the employer would be at liberty if he so chooses thereafter to deal out the punishment to the workmen. On such action being taken by the employer the workmen would be entitled to raise an industrial dispute which would have to be referred to the appropriate tribunal for adjudication by the Government on proper steps being taken in that behalf. When such industrial dispute comes to be adjudicated upon by the appropriate tribunal the workmen would be entitled to have all the circumstances of the case scrutinised by the tribunal and would be entitled to get the appropriate relief at the hands of the tribunal"

and has argued that the tribunal shall have to scrutinize the evidence in the enquiry.

30. Considering the wording of these observations it shall have to be accepted that their Lordships in this ruling wanted to say that in proceedings arising out of references there will be greater latitude regarding the scrutiny of the evidence. The words "all the circumstances" in the sentence "the workmen would be entitled to have all the circumstances of the case scrutinised by the tribunal" clearly indicate that the tribunal has to examine the circumstances of course in the light of the evidence. It also appears to be consistent to the changed circumstances due to the interference of the union and one shall have to remember that during the domestic enquiry only the workman was a party and the

union had not stepped in. The matter assumes graver turn only when the union takes up the challenge and raises a dispute after the dismissal and a reference is made. Under these circumstances there appears some force in the contention that it was unjust to require the union to accept the findings of the domestic tribunal on merits without scrutiny. However, it cannot be ignored that the union will enter the arena only when there is a case of unfair labour practice or victimization and great injustice. Under the rulings of our Supreme Court the tribunals are permitted to examine the evidence to consider the questions of unfair labour practice, want of good faith, etc., and the union has got the opportunity to prove that case before the tribunal.

31. There are a number of rulings of the Supreme Court even after the above observation in 1957 1 LLJ page 17 which lay down the limitations of the tribunal in such references and in which the principles in 1958 1 LLJ p. 260 are further explained. These judgments of their Lordships also give further guidance to the tribunals about the enquiry and the circumstances under which the tribunals will be justified in setting aside the order and itself decide the question permitting the parties to lead evidence. In the ruling reported in 1962 II LLJ 498 it has been observed:—

"It is well settled that if an employer serves the relevant charge or charges on his employee and holds a fair and proper enquiry it would be open to him to act upon the report submitted to him by the enquiry officer and to dismiss the employee concerned. If the enquiry has been properly held the order of dismissal passed against the employee in respect of such an enquiry can be challenged if it is shown that the conclusions reached at the departmental enquiry were perverse or the impugned dismissal is vindictive or *mala fide* and amounts to an unfair labour practice. In such an enquiry before the tribunal it is not open to the tribunal to sit in appeal over the findings recorded at the domestic enquiry. When a proper enquiry has been held it would be open to the enquiry officer holding the domestic enquiry to deal with the matter on the merits *bona fide* and come to his own conclusion.

If it appears that the departmental enquiry held by the employer is not fair in the sense that proper charge had not been served on the employee or proper or full opportunity had not been given to the employee to meet the charge or the enquiry has been affected by other grave irregularities vitiating it then the position would be that the tribunal would be entitled to deal with the merits of the dispute as to the dismissal of the employee for itself."

32. In a recent ruling also (1965 II LLJ 153 J.K. Cotton Spinning and Weaving Company Ltd., and its workmen) their Lordships have held:—

"It has been pointed out time and again that an industrial tribunal to which a dispute arising from dismissal of an industrial employee has been referred for adjudication is not an appeal court having the power to examine the correctness of the conclusions of fact arrived at by a domestic tribunal. Where the industrial tribunal finds that there was nothing improper or unfair in an enquiry conducted by the domestic tribunal and where the action taken against the workmen was not actuated by any ulterior motive and where the principles of natural justice have not been infringed it is beyond the powers of an industrial tribunal to set at naught the action taken by the management which lay within its competence under the standing orders. Whether the material before the domestic tribunal was adequate or not or whether the particular witnesses upon whom reliance was placed by the tribunal should have been believed or not was entirely a matter for the consideration of the domestic tribunal. The industrial tribunal while adjudicating upon an industrial dispute referred to it does not possess the power of reviewing the evidence adduced before the domestic tribunal or of taking fresh evidence before it except in the limited class of cases as referred to in the decision in 1959 1 LLJ 285."

In the ruling reported in 1959 1 LLJ p. 285 (G. McKenzie & Co. Ltd., and its workmen and others) their Lordships have quoted the principles laid down in 1958 1 LLJ p. 260 and have further observed:—

"In the absence of any of the vitiating circumstances mentioned above it would not be open to the industrial tribunal to disbelieve the evidence of a witness examined at the domestic enquiry and come to a different conclusion on merits."

33. Considering these rulings I do not think that this Tribunal will be justified in entering into the merits of the dispute and reviewing the whole record unless it has been proved that the enquiry held by the management is unfair. The emphatic observations

in these later rulings also have clearly laid down the limitations of the scope of the enquiry and the powers of the Tribunal and I do not think that I can scrutinise the circumstances and enter into the merits of the dispute. This Tribunal will be justified in entering into the merits of the dispute only if it is found that the domestic enquiry is unfair and improper and being against the principles of natural justice is vitiated and I shall consider the contentions in that respect.

34. In this case also the union has challenged the validity of the enquiry on the grounds that the enquiry was unfair and improper and the findings of the enquiry officer were perverse. However, the learned Counsel on behalf of the union has not shown me any circumstance which would indicate that the enquiry was unfair or improper. While stating the facts I have mentioned that the delinquent workman was served with a charge-sheet on the 13th April, 1964 and he has also given a reply to the charge after about 10 days. Subsequently the Branch Manager held the enquiry in which the workman was represented by Shri Kothare, the Secretary of the Union. The enquiry commenced on 28th April, 1964 on which day the management examined in chief the main witness Shri Srinivasan. After the examination in chief was concluded the enquiry was required to be adjourned as Shri Kothare was not feeling well. The next day also the enquiry was required to be adjourned as Shri Kothare had sent the copy of a letter to the management advising him physical rest and ultimately the enquiry was resumed on the 4th May, 1964 and was going on till the end of May 1964.

35. During the enquiry the management examined Shri Srinivasan, the Fire Manager, Shri Rajappan, Shri Iyengar, Shri Ramalingam, Shri D'Lima and Shri Karnik. The workman also examined about six witnesses—Shri Gabriel, the Assistant Manager of the company, Shri D'Souza, Shri Sequeira and others. Shri Kothare also made a statement before the enquiry officer and had also produced some documentary evidence on behalf of the workman. The enquiry officer heard both the parties on the 1st June, 1964 and thereafter gave his findings. Thus it is clear that the management had informed the delinquent the charges against him. He was also given full opportunity to meet the case. He had cross-examined witnesses and led defence evidence to rebut the case of the management and I do not find anything in the enquiry which would render it unfair or improper.

36. The tests of a proper enquiry have been also given by their Lordships of the Supreme Court in the ruling reported in 1963 II LLJ page 367 in which it has been observed:—

"It is now settled by various decisions that if an industrial employee's services are terminated after a proper domestic enquiry held in accordance with the rules of natural justice and the conclusions reached at the enquiry are not perverse the industrial tribunal is not entitled to consider the propriety or the correctness of the said conclusions. But the said decisions do not mean that the mere form of an enquiry would satisfy the requirements of industrial law and would protect the disciplinary action taken by the employer from challenge. An enquiry cannot be said to have been properly held unless—

- (i) the employee proceeded against has been informed clearly of the charges levelled against him;
- (ii) the witnesses are examined ordinarily in the presence of the employee in respect of the charges;
- (iii) the employee is given a fair opportunity to cross-examine witnesses;
- (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter; and
- (v) the enquiry officer records his findings with reasons for the same in his report."

37. The record of the proceedings of the enquiry will clearly show that all these requirements have been satisfied and there is no defect of any kind in the enquiry. It is clear that after the evidence of the witnesses examined by the management the enquiry officer had questioned Shri Pillai about the plea and when he stated that he did not want to change his plea the enquiry officer asked Shri Kothare whether he wished to call any witnesses. At that time Shri Kothare told the enquiry officer that he wished to know whether Shri Pillai should make a statement and the enquiry officer informed him that it was entirely left to him. The enquiry officer has observed on page 51 of the enquiry:—

"That is entirely upto you. There is no need for Shri Pillai to give evidence if he does not wish to do so. If he does so he will be subject to examination by Shri Kothare and cross-examination by Shri Gabriel and re-examination

by Shri Kothare. If he wishes to give evidence it may be done at any time during the evidence for the defence."

It is thus clear that the enquiry officer had given an opportunity for the examination of the workman proceeded against and I do not find any defect in the enquiry.

38. It was contended in the written statement that no copy of the complaint was furnished to the workman. However, it is clear that Shri Srinivasan has not made a written complaint. It has come in evidence that he reported the matter to the Assistant Manager every day and Shri Gabriel was fully acquainted with the matter. In fact Shri Ramalingam had on the 11th April, 1964 itself enquired whether the statements were received and he did so at the instance of Shri Gabriel and as Shri Gabriel was following the matter there was no necessity of a written complaint. Moreover the charge itself has been elaborately drawn and all the allegations are made giving the details and there is no question of any injustice. After the evidence the enquiry officer heard the parties and I do not find a single circumstance showing the violation of principles of natural justice. The domestic enquiry is fair and proper and cannot be re-opened.

39. It is not in dispute that Shri Srinivasan was the superior officer of Shri Pillai who was bound to obey instructions received from Shri Srinivasan. It appears from the evidence that in the beginning Shri Pillai had refused to prepare the copy on the grounds that it was originally done by one Shri Nair and it was not his duty to make the copy when one was found short. However, this point has not been argued and it has been conceded that the order for making a copy was a lawful order issued from a superior and now the defence is that Shri Pillai had carried out the instructions by making the copy on the 8th April, 1964 itself.

40. The management's witness Shri Srinivasan has stated in his deposition how Shri Pillai refused to prepare the copy of the debit note from 8th April, 1964. He did not also prepare the copies of the four debit-credit notes given to him on the 13th April, 1964. The other witnesses Shri Rajappan and Shri Iyengar had supported Shri Srinivasan and the Enquiry Officer had held that Shri Pillai had refused to make the copy of the debit note of Mahindra and Mahindra from 8th April, 1964 till the 13th and he had also refused to prepare the copies of the four debit credit notes on the 13th as instructed. Learned Counsel for the defence has argued that the enquiry officer has not appreciated the evidence properly and hence the findings are perverse.

41. Regarding perversity the learned Counsel for the management has invited my attention to the ruling reported in 1957 II LLJ 162 (Chopra Motors and their workmen) in which it has been observed:—

"A perverse finding is not only against the weight of the evidence, but is altogether against the evidence itself. It has been well recognised a wrong finding arrived at on the materials on record is not necessarily a perverse finding. A finding could not also be said to be perverse merely because it was possible to take a different view on evidence."

The record of the enquiry will show that the enquiry officer has discussed the statements made by the witnesses of the management. He has also discussed the evidence led by the defence and has come to the conclusion that Shri Pillai had refused to prepare the copy and has thus disobeyed the lawful instruction given by his superior. It will be seen from the judgment of the Supreme Court reported in 1962 II LLJ page 772 (Hamdard Dawakhana Wakf and its workmen and others) that the finding of the enquiry officer will be perverse only if it is shown that such finding is not supported by any evidence or is entirely opposed to it. In this ruling it has been held:—

"In the appeal by special leave against the portion of the award directing reinstatement it was held that the approach of the industrial tribunal to the issue in question was not correct. It was settled law that in dealing with industrial disputes of such kind industrial tribunal would be justified in characterizing the finding recorded on the domestic enquiry as perverse only if it is shown that such a finding is not supported by any evidence or is entirely opposed to the whole evidence adduced before it."

42. In the light of these observations if we examine the findings and the reasoning of the enquiry officer we shall find that there is absolutely no case for the union. In the finding the enquiry officer has observed:—

"Mr. Srinivasan's evidence that he instructed Shri Pillai to prepare the copy of Mahindra and Mahindra's debit note on 8th April is therefore supported by the evidence of Shri Iyengar and Shri Rajappan who state they were present and heard what transpired. Mr. Srinivasan's evidence is also supported by

the evidence given by Shri Gabriel when questioned by Shri Kothare for Mr. Gabriel has confirmed that he was following developments very carefully and was fully aware as to what was happening daily."

He has further observed:—

"The company therefore has made out a case duly supported by evidence that on three successive days Shri Pillai refused to make an extra copy of Mahindra and Mahindra's debit note and continued in his refusal until sometime on Monday morning."

Considering these observations it cannot at all be said that the findings of the enquiry officer are not supported by any evidence.

43. The record will show that the findings are not opposed to the whole evidence or against the weight of evidence. The union has examined Shri D'Souza who supported the defence version and has stated that on the 8th of April, 1964 at about 5 P.M. while he was about to leave office Shri Pillai had approached him with the Mahindra and Mahindra's debit note along with the copy. At that time he told him that it was time for him to leave and that the debit note should be brought to him the next day morning and the next day morning Shri Pillai approached him in the presence of Shri Sequeira and handed over to him Mahindra and Mahindra's debit note along with the copy. The enquiry officer has discussed the evidence of Shri D'Souza and Shri Sequeira and has found that Shri Pillai handed over the copy to him on the 13th April, 1964. He has observed:—

"I hold that the copy of the debit note was handed over to Shri Leslia D'Souza in the accounts department by Shri Pillai on the 13th April immediately prior to Shri Ramalingam sending for the entire accounts department staff."

It is clear from the record that the defence version about handing over the copy by Shri Pillai to Shri D'Souza on the 9th April in the morning is disbelieved by the enquiry officer. It is significant to remember that the two versions regarding the time of delivery given by Shri Pillai and that given by Shri D'Souza are inconsistent.

44. In reply to the charge-sheet Shri Pillai has stated:—

"Accordingly I have taken a copy of the debit note and handed it over to the accounts department on the 8th April, 1964 itself. The allegation is therefore quite strange and surprising."

Thus according to this version the copy was handed over by him the day he was asked to prepare while the defence witness Shri D'Souza has given a different version. Had the copy been delivered by Shri Pillai to Shri D'Souza? Shri D'Souza would not have failed to bring this fact to the notice of his superior officer especially when other four similar copies were found short and Shri D'Souza took them to Shri Srinivasan. It is also an admitted fact that Shri Ramalingam had made enquiries with Shri D'Souza about the Mahindra and Mahindra copy on the 11th and on the 13th and he had stated that the copy was not received. Under these circumstances I do not find anything improper on the part of the enquiry officer to disbelieve his evidence. Moreover the enquiry officer had occasion to observe his conduct while he was making the statement. The enquiry officer has observed:—

"He was a most unsatisfactory witness rushing through his evidence at great speed so that it was with the utmost difficulty that his evidence was recorded at all and he had to be reprimanded many times both by the enquiry officer and by Shri Kothare himself."

45. The enquiry officer has further discussed the evidence of Shri Sequeira who was present at the time Shri Pillai had handed over to Shri D'Souza the copy of the debit note regarding Mahindra and Mahindra. It was the defence case that the copy was handed over by Shri Pillai to Shri D'Souza on Thursday, the 9th April in the morning. Shri D'Souza had stated that the copy was handed over to him by Shri Pillai in the presence of Shri Sequeira. Shri D'Souza had in his cross-examination further stated that Shri Pillai specifically drew Shri Sequeira's attention to the fact that he was handing over the copy of Mahindra and Mahindra's debit note. This was unusual conduct and when Shri D'Souza was asked questions about it he has stated:—

"A. Because Sequeira was a man who had told me that Mr. Ramalingam wants the copy that Pillai handed over to me."

Q. Is it not correct that Mr. Sequeira only explained Mr. Ramalingam's instructions to you on Monday, 13th April?

A. I don't know any date."

46. This answer that Shri Sequeira told the witness that Shri Ramalingam wanted the copy itself suggested that the handing over of the Mahindra and Mahindra's debit note by Shri Pillai occurred on Monday, the 13th April, 1964 as it was only on that day that Shri Sequeira mentioned to Shri D'Souza that Shri Ramalingam was requesting the copy and he took it to Shri Srinivasan. The enquiry officer has applied his mind to this important evidence. He has observed:—

"When Shri D'Souza observed where this fatal answer was leading him he endeavoured to retract his evidence and finally admitted that he could not say whether or not Shri Sequeira witnessed the handing over of the debit note. Finally when Shri Gabriel put to Shri D'Souza whether he clearly understood what Shri Ramalingam was asking that his reply that on Monday, 13th April he did not have the copy of Mahindra and Mahindra's debit note was quite correct the witness made no reply to this but burst into tears."

All this will show that the enquiry officer has considered the evidence and properly weighed the circumstances. In his opinion the evidence of Shri D'Souza that Shri Pillai handed over the copy to him on the 9th April, 1964 does not deserve any consideration. It was not acceptable to him and under no circumstances it can be said that the finding is against the evidence. It has been observed in the ruling reported in 1965 II LLJ 346:—

"Perversity in a recorded finding is a matter of objective determination."

and it cannot be said that the findings are not supported by the evidence or are entirely opposed to the evidence and the contention that they are perverse cannot be accepted.

47. The union has further challenged the validity of the enquiry on the contentions that the enquiry was held by Shri Bramley, the Manager of the company, the charge-sheet was signed by the Assistant Manager for the Manager and in this case the enquiry officer was both the prosecutor and the judge and the management ought to have appointed another person to conduct the enquiry. It has been further contended that Shri Bramley was biased against the union from the beginning and wanted to break up the group of the employees the members of the union and he did not hold the enquiry impartially. It has been contended that the biased nature of the enquiry officer would be visible from his conduct during the course of the enquiry. He has also disallowed important questions to be put by the defence to the witnesses in cross-examination and has deprived the union of the opportunity to prove their case. There are no *bona fides* on the part of the enquiry officer and as he was biased he was incompetent to act as enquiry officer and the enquiry is bad.

48. It is not in dispute that Shri Gabriel who is the Assistant Manager had signed the charge-sheet for the Manager and Shri Bramley, the Manager of the branch office had held the enquiry. However, this circumstance will not show that Shri Bramley was the prosecutor and the judge. It is not in dispute that the allegation against Shri Pillai that he refused to prepare the copy of the debit note as directed was made by Shri Srinivasan his superior officer. Shri Srinivasan made a complaint about it to the management and Shri Pillai was charge-sheeted. Shri Bramley was not directly concerned with the complaint or the incident of refusal by Shri Pillai and he was also not personally interested and there is no question of Shri Bramley being the prosecutor and the judge.

49. The mere circumstance that the enquiry officer Shri Bramley was the officer of the company will not make him incompetent to hold the domestic enquiry. The management is responsible for the internal administration of the concern and the enquiry by the head of the company cannot be said to be against the principles of natural justice. It is well known that enquiries of this type are generally conducted by the officers of the employer and the union has not shown me any ruling in which it has been held that an enquiry is bad simply because it is conducted by an officer of the company and I do not think that the findings of a domestic tribunal can be validly challenged only on the ground that the enquiry officer was an officer of the company.

50. Regarding the contentions about the attitude and conduct of the enquiry officer during the course of the enquiry, I do not find any substance in the allegations that the enquiry officer was biased against the union or the workmen and had no *bona fides*. The Counsel on both sides have taken me through the whole evidence recorded by the enquiry officer. The enquiry officer has taken down every question and answer and recorded even the talk between the parties and the remarks he made and the proceedings appear to me to be a faithful record of what happened during the enquiry.

51. It was argued that the enquiry officer started with a bias and had all along a prejudice in his mind against the union; the enquiry officer has refused the request of the defence for postponement of the enquiry on the very first day; he has also asked for an assurance from the union that they would not prevent the proceedings of the enquiry

if adjournment was granted and this showed that the enquiry officer was partial and had loyalty to the management.

52. After the charge-sheet and the reply the enquiry commenced on 28th April, 1964. It appears that on the day Shri Kothare, the workman's representative had requested a postponement upto 1st of May on the ground that he was not prepared with the defence and after some discussion the request was not granted. However, the proceedings do not show that the enquiry officer was prejudiced. On the contrary the enquiry officer was willing to adjourn the proceedings and had no objection for the adjournment but asked Shri Kothare for an assurance that by the postponement no attempt would be made to prevent the due holding of the enquiry and Shri Kothare failed to give an assurance.

53. It appears from the record that some witnesses wanted to go on leave and there was also some discussion about intimidation to the witnesses by the defence to which Shri Kothare had given a reply. Under these circumstances it was quite natural on the part of the enquiry officer to ask Shri Kothare for an assurance. However, Shri Kothare was not prepared to give the assurance and hence the request for adjournment was refused and on that day only the examination-in-chief of the witness Shri Srinivasan was concluded. After the examination-in-chief Shri Kothare requested for adjournment contending that he was not feeling well, and the enquiry officer adjourned the matter and I do not think that there was any prejudice in the mind of the enquiry officer. Had there been any truth in the contention that the enquiry officer Shri Bramley was biased against the union and he wanted to break up the group of workmen the union would not have failed to take an objection for the conduct of the enquiry by Shri Bramley. The various submissions made by Shri Kothare and the protests raised and recorded in the enquiry show the attitude of the union and they would have definitely required the enquiry officer to record their objection for Shri Bramley to hold the enquiry and this contention is clearly an afterthought.

54. It was further argued that on the 30th April, 1964 when Shri Kothare requested for adjournment on the ground that he was still feeling giddy and uneasy there was some discussion about an alternative representative for the workman. The management had raised objections to the postponement contending that the postponement would cause inconvenience to the defence witnesses themselves as the defence witnesses had made applications for leave and they could not proceed on leave unless they were examined and their evidence was recorded in the enquiry. Shri Kothare had given the names of the three witnesses Shri Rajappan, Shri Alfonso and Shri Narayan as defence witnesses but he offered to dispense with the evidence of Shri Rajappan and Shri Alfonso. At that time the enquiry officer pointed out that the evidence of Shri Rajappan was material and if the defence did not want to examine him as a witness the management should call him.

55. The learned Counsel on behalf of the union has argued that this remark of the enquiry officer clearly showed that he was taking part in the enquiry as the prosecutor. It was not for him to say that the evidence of Shri Rajappan was material. It also showed that the enquiry officer knew what Shri Rajappan was going to say and the enquiry officer was not honest and therefore the enquiry was unfair. I have anxiously considered the submissions of the union in this respect and have carefully gone through the record. I do not find any substance in the contention that the remark of the enquiry officer showed any dishonesty or partiality on his part. While considering this contention it cannot be ignored that before the enquiry officer there was the evidence—the examination-in-chief of the main witness Shri Srinivasan. According to this evidence it was the defence of Shri Pillai that in the month of February the Mahindra and Mahindra debit note and other notes were made by Shri Rajappan and he himself should not have been asked to prepare the copy if one was short. Shri Srinivasan has referred to this part of his story on page 4 of the enquiry. He has stated:—

"I explained to Mr. Pillai that this was the work relating to him and he should only do that. If somebody else had done it in February it was perhaps done during your absence from office and it was not fair for me to ask him to take a copy now. Thereupon Mr. Pillai told me that it was done at that time by Mr. Nair (Mr. C. N. Rajappan) and he only should do it."

Thus it is clear that it was the defence of Shri Pillai that it was the duty of Shri Rajappan to prepare the copy and the order of Shri Srinivasan to him to make the copy was not lawful and he was not bound to obey it.

56. It is significant to remember that even in his reply to the charge Shri Pillai had taken this type of defence. He has stated in paragraph 5 of his reply:—

"I may also state preparation of credit note is not coming within my normal charter of duties. For the same reason the allegations contained in sub-para (d) of your letter, viz., that at 3 P.M. on Friday, the 10th April, 1964 I did not hand over the required work to Mr. Srinivasan does not arise at all."

This clearly shows that it was the defence of Shri Pillai that the original debit note was prepared by Shri Rajappan and he himself was not bound to do it and in view of this defence I do not think that the remarks of the Enquiry Officer that the evidence of Shri Rajappan is material and he must be called if not by the defence then by the management would show that he was prejudiced against the defence.

57. There is nothing improper for the enquiry officer to express his opinion that the witness should be called by the management. The enquiry officer holding a domestic enquiry is a domestic tribunal. In various cases our Supreme Court has applied the rules of natural justice to domestic enquiries held in cases of indiscipline in industry. The rules of natural justice are based on mainly two principles—

- (1) No man shall be a judge in his own cause or in any in which he is interested which is known as 'Doctrine of Bias'.
- (2) The opposite party must have notice of the proceedings and he must have a full opportunity of being heard which is known as "Audi alteram partem".

Thus it will be clear that the enquiry officer must be particular in observing the principles in the procedure followed in the enquiry and asking the management to examine a particular witness is not against the principles of natural justice.

58. It will be seen that our Supreme Court has observed in the ruling reported in 1964 1 L.J. page 24 (State of Mysore and others and Shivabasappa Shivappa)—

"Tribunals exercising quasi-judicial functions are not Courts and therefore they are not bound to follow the procedure prescribed for trial of actions in Courts nor are they bound by strict rules of evidence. They can unlike Courts obtain all information material for the points under enquiry from all sources and through all channels without being fettered by rules and procedure which govern proceedings in Court."

It was not suggested by the enquiry officer that the evidence of Shri Rajappan should be recorded behind the back of the workman and the remark made by the enquiry officer is perfectly innocuous.

59. The witness was cited by Shri Pillai clearly with a view to support his defence which I have earlier adverted to and it cannot be doubted that he was a material witness. In view of the defence suggested at that stage the evidence of Shri Rajappan if favourable to Shri Pillai would have mitigated the misconduct and the remark does not show that the enquiry officer was partial or that he had a bias against the union.

60. It has been further argued that the enquiry officer has disallowed a number of questions put by Shri Kothare to the management's witnesses in cross-examination. The enquiry officer did not permit the union to bring them on record and it showed that he was safeguarding the interests of the management. The learned Counsel has read to me the questions and objections on pages 25 and 26 of the enquiry proceedings which pertain to the cross-examination of Shri Srinivasan. These questions are in respect of the relations between witness Shri Srinivasan and the other staff members in general and the first question on this subject is—

"What generally persons connected with this office including the employees have opinion about you and your treatment towards them."

There are similar questions put to Shri Srinivasan how the people connected with the office were not happy with him and distributed sweets when Shri Srinivasan was transferred from the accounts department to fire department.

61. These questions were objected to and the enquiry officer upholding the objection disallowed them. When he asked Shri Kothare about the relevancy in asking these questions Shri Kothare has given the following reply:—

"My intention, I think, in putting such questions to the company's witness is to prove the general treatment meted out to the employees by this witness. If the questions were answered it would prove that the witness concerned has some peculiar methods which annoy a person. Also generally he tries to push the blame on to his assistants and therefore he often complains against the employees to the principals."

However it cannot be ignored that in the present enquiry the only question to be decided was whether Shri Pillai had prepared the copy or not. His case was that he had prepared it on the same day and had delivered it to Shri D'Souza. It is not even the case of Shri Pillai that he informed about it to Shri Srinivasan and that he was giving some

false story and the question about the methods of this witness would not have thrown light upon the issues.

61. The enquiry officer while recording the evidence has to consider the relevancy of the questions put to the witnesses and he is competent to disallow the questions which he thinks to be irrelevant. It has been observed in the ruling reported in 1963 II LLJ page 429 Anand Bazar Patrika (Private) Ltd., and their employees:—

“The relevancy of questions at the domestic enquiry is to be decided by the enquiry officer who conducts the enquiry. Unless it is shown that he was acting *mala fide* in disallowing some questions which were relevant such a circumstance would not vitiate the enquiry.”

Considering the subject matter of the enquiry which was the refusal by Shri Pillai to prepare the copies of the debit notes it cannot be said that the enquiry officer Shri Branley had disallowed these questions because he was biased against the union or had in his mind the object of safeguarding the interests of the management and depriving the union to prove their case.

62. It was further contended that in this enquiry the management was actuated by a desire to remove the office bearers of the union. They had planned about it long before Shri Srinivasan had made the complaint at the instance of the management and the discharge of Shri Pillai was a result of unfair labour practice and victimisation. I have already mentioned the facts of the case. It is not in dispute that Shri Srinivasan had asked Shri Pillai to prepare the copy of the debit note of Mahindra and Mahindra on the 8th April and had also told him to prepare the copies of four other debit notes and deliver them to him on the 13th April specifically instructing him to prepare the copies and hand them over to him before 11 A.M. The enquiry officer has come to the conclusion that Shri Pillai had not made the copy of Mahindra and Mahindra's debit note till the 13th April 1964. He had also not prepared the copies of the other four debit notes and was liable for the misconduct of insubordination and the question is whether there was planning and unfair labour practice.

63. However, considering the evidence and the admitted circumstances there is hardly anything to support the contention of the union that the management had planned to make a false charge against Shri Pillai to victimize him. The defence evidence itself shows that events took place in their natural course. In fact it is Shri D'Souza the main defence witness who had initiated the whole affair and set the ball rolling. He works in the accounts department and carries on the work of closing the bank guarantee statements and needs sufficient number of copies of the debit/credit notes. He has stated that he found the Mahindra and Mahindra's debit note one copy short and so he approached Shri Rajappan Nair but Shri Nair told him to hand over that work to Shri Pillai and as Shri Nair refused to make the copy he approached Shri Srinivasan and made a grievance to him and handed over the statements to him telling that one copy was short and he required one copy.

64. It is also clear from the evidence of Shri D'Souza (though he has given a different story about the day) that he found that there were other four copies short. He has clearly stated that while preparing the other guarantee statements he found that the debit/credit notes of Tulsidas was short, so he checked up the full lot of debit notes and found other statements with copies short and hence he handed over to Shri Srinivasan those notes. Thus it is clear that the copies of four debit credit notes were also required by Shri D'Souza and hence he approached Shri Srinivasan.

65. The debit-credit notes were not brought on record in the enquiry and with a view to see the quantum of the copying work required to be done the tribunal had asked the management to produce one copy. They have produced a copy of the Mahindra and Mahindra debit note (Ex-E-1) which shows that the copy can be made within two or three minutes. When such copies are required in fact in private offices ordinarily the clerk approaches the clerk concerned and gets the work done. But in this case the defence witness had to approach his superior officer and further to make a complaint to Shri Srinivasan for getting a copy made. It is not the defence case that Shri D'Souza was acting at the instance of the management and the suggestion about planning does not stand to reason.

66. It is not now in dispute that it is the duty of Shri Pillai to prepare the copy of the debit notes. I have already mentioned that at the earlier stage the workman had taken up the defence that as the debit notes were prepared by Shri Rajappan in the month of February it was for him to make up the shortage but as the same has been given up it is clear that it was the duty of Shri Pillai to prepare the copy and it was quite lawful for

Shri Srinivasan to instruct him to prepare the copies of the notes, and there is nothing out of the way on the part of the officer to ask him to prepare the copies which were short.

67. Admittedly, Shri Srinivasan had asked Shri Pillai to make the copies both on the 8th and 13th April. It is also further clear from the defence evidence that the officers of the company had made enquiries whether the copies were prepared and the accounts department had received them. Shri D'Souza has also admitted that Shri Ramalingam in charge of the accounts department had even on the 13th made enquiries and at that time he had told him that he had not received the copy and it was quite natural for the officers to make a complaint that the copy was not received. Admittedly on the 13th Shri Srinivasan gave the four debit-credit notes to Shri Pillai for making copies. As they were urgently required he instructed him to make the copies and pass on to him by 11 A.M. Admittedly this has not been done. In view of these admitted circumstances and the evidence, the union's contention that the management had planned a false charge against Shri Pillai and there was unfair labour practice does not at all stand to reason.

68. It was argued that the relations between the union and the management were strained from the time Shri Bramley took over charge of the branch and he was biased against the union. In the written statement also such contentions have been raised. There is nothing in the record to show that the relations between the management and the union were in any way strained. No evidence has been led in respect of any incident showing such strained relationship. On the contrary, if we see the conduct of the management in the present affair we shall have to come to the conclusion that the relations between the union and the management were normal. Shri Srinivasan's evidence shows that when Shri Pillai refused to make the copy on the 8th April 1964 he immediately apprised the Assistant Manager about it. Every day Shri Srinivasan reported to the Assistant Manager about the conduct of Shri Pillai in refusing his instructions and the Assistant Manager Shri Gabriel used to ask him to wait.

69. It is at the instance of the Assistant Manager that Shri Ramalingam had checked up in his department on Saturday the 11th April 1964 to see whether the Mahindra and Mahindra copy was received in the department. It is significant to note that when the Assistant Manager found that the copy was not made and the matters were likely to develop into a serious stage he considered it proper to seek the co-operation of the President of the Union Shri Kothare and asked him for his co-operation in bringing the matter to a happy end and Shri Kothare also assured him that he would do his best. Shri Kothare in his statement has admitted this fact and has stated:—

"It is true that Mr. Gabriel expressed to me his anxiety at the alleged refusal to carry out the duties by Mr. Pillai."

The very fact that this talk between Shri Gabriel and Shri Kothare took place on Saturday 11th April 1964 confirms that Shri Pillai had refused to make the copy and the refusal was continued for three days. Had the relations between the union and the management been strained or had there been any plan to victimize the workman I do not think that Shri Gabriel would have approached Shri Kothare and requested him for his co-operation and there is nothing to show that relations between the union and the management were strained or that there were any *mala fides* on the part of the management.

70. The second part of the charge-sheet related to the refusal on the part of Shri Pillai to prepare the copies of the debit-credit notes which were handed over to him by Shri Srinivasan on Monday the 13th April 1964 directing him to make the copies and hand them over to him by 11 A.M. as they were urgently required. It is an admitted fact that Shri Pillai had not prepared the copies till 12 noon and Shri Srinivasan had to take them back and hand them over to Shri Ramalingam to get the copies prepared through his department. Shri Srinivasan had specifically directed Shri Pillai to make the copies and hand them over to him before 11 A.M. and the excuse given by Shri Pillai that he had some other important work regarding the accounts has been rightly rejected by the enquiry officer and there is hardly anything which would show want of *bona fides* on the part of the management in charging Shri Pillai for his refusal to make the copies as directed to him.

71. The learned Counsel for the union has argued that Shri Pillai was the office bearer of the union and the act of the management in charging him for misconduct and removing him from service is an act of victimization. It is true that Shri Pillai has connections with the union and was an office bearer. Sometimes he was also the Secretary and at the time of the discharge he was a member of the group committee and can be said to be an active member of the union. However this circumstance will not show that the

management started the false proceedings against him simply because he was an office bearer of the union. It has been observed in the ruling reported in 1963 1 LLJ p. 291 (Bengal Bhatdee Coal Company and Ram Prabesh Singh and others):—

"Further the fact that the relations between the employer and the union were not happy and the workmen concerned were office bearers or active workers of the union would by itself be no evidence to prove victimization for if that were so it would mean that the office bearers and active workers of a union with which the employer is not on good terms would have a *carte blanche* to commit any misconduct and get away with it on the ground that relations between the employer and the union were not happy."

72. I have already discussed the evidence and facts showing the circumstances under which Shri Pillai has come to be charge-sheeted. The enquiry officer has held that Shri Pillai had refused to make the copies of the debit notes and was guilty of the misconduct of insubordination. I have just mentioned that the second part of the charge is almost admitted and when the workman is held liable for misconduct there can be hardly any case for victimization.

73. When the employee is innocent and becomes the victim of the illegitimate fancy of the employer having no connection with the maintenance of discipline then alone there will arise a case of victimization. When the misconduct is proved there can be no case of victimization. In that case the fact that the delinquent is an officer of the union makes no difference. He is first an employee and has to maintain discipline. In my opinion the office bearer of the union has a greater responsibility in respect of discipline as ultimately every industry is for the benefit of the society.

74. The learned Counsel has further argued that Shri Pillai had made the Mahindra and Mahindra copy. He was very busy on the 13th in preparing the head office returns and under these circumstances the punishment of discharge from service is also not commensurate and it showed the *mala fides* of the management. I do not find any substance in this contention also. It has been observed in the ruling reported in 1963 1 LLJ page 291 (Bengal Bhatdee Coal Company and Ram Prabesh Singh and others):—

"There is no doubt that though in a case of proved misconduct, normally the imposition of a penalty may be within the discretion of the management, there may be cases where the punishment of dismissal for the misconduct proved may be so unconscionable or so grossly out of proportion to the nature of the offence that the tribunal may be able to draw an adverse inference of victimization merely from the punishment inflicted."

It has been also observed in the ruling reported in 1965 1 LLJ page 462 (Hind Construction and Engineering Company Ltd., and their workmen):—

"In respect of punishment it has been ruled that the award of punishment for misconduct under the standing orders, if any, is a matter for the management to decide and if there is any justification for the punishment imposed the tribunal should not interfere. The tribunal is not required to consider the propriety or adequacy of the punishment or whether it is excessive or too severe. But where the punishment is shockingly disproportionate regard being had to the particular conduct and the past record or is such as no reasonable employer would ever impose in like circumstances the tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice."

75. I have already observed that Shri Pillai was found guilty of the misconduct of insubordination and had continuously refused to make the copy and disobeyed the orders of his superior from 8th April 1964 to 13th April 1964. Even on the 13th April 1964 he refused to make the copies of the four debit-credit notes handed over to him and the view of the principal officer of the company that Shri Pillai had committed grave and serious misconduct cannot be considered to be incorrect. The employees are expected to maintain discipline in the office and no victimization can be inferred from the sentence of discharge imposed upon him.

76. It is significant to remember that the management had given Shri Pillai every opportunity to make amends. While discussing the evidence the enquiry officer has observed:—

"Mr. Pillai in so far as the Mahindra and Mahindra debit note is concerned commenced an act of wilful disobedience around 4:45 p.m. on Wednesday 8th April and it has been shown that the wilful disobedience continued until the beginning of office on Monday 13th April. Mr. Gabriel has shown that he

took every step to avoid the issue of a charge-sheet. On Wednesday and again on Thursday he told Mr. Srinivasan to try again and see whether Mr. Pillai would change his attitude. On Friday evening when Mr. Srinivasan reported for the third time that Mr. Pillai was still maintaining an attitude of refusal to do his work Mr. Gabriel did not immediately issue a charge-sheet, but thought the matter over during the evening. Rather than rush to the issue of a charge-sheet Mr. Gabriel conceived the idea of appealing to Mr. Kothare the workman's union leader to see whether persuasion by one of his own colleagues would produce a change of attitude. Mr. Gabriel has testified that Mr. Kothare afforded every co-operation in avoiding this unpleasant incident and it would seem that in advising Mr. Kothare ultimately that the Mahindra and Mahindra copy debit note was in the Accounts Department Mr. Pillai lied to Mr. Kothare, for immediate enquiries revealed that it was not there. When on Monday April 13th the M. & M. copy debit note was discovered nothing further would have been heard of this matter had Mr. Pillai immediately taken in hand the preparing of extra copies of the other four debit/credit notes but such was Mr. Pillai's pride that he did not do so. It is obvious that from the start Mr. Pillai embarked on a deliberate policy of refusing to obey orders in connection with his work; orders legitimately given by a superior, with the object probably of humiliating Mr. Srinivasan."

Shri Gabriel had also given him an opportunity to make amends. Before the enquiry officer Shri Gabriel has stated:—

"At the time I handed the charge sheet to Mr. Pillai I made it a point of telling him that even at this late stage I was prepared to take a lenient view if he approached Mr. Srinivasan saying he would do the work and express his regrets. I know the work had been done and I told Mr. Pillai too, but all the same I wished him to proceed in this fashion viz., approaching Mr. Srinivasan as suggested. I told Mr. Pillai if he did this any time within the period the charge sheet was returnable and I would certainly take a lenient view. I doubt if I could have done anything better. Unfortunately Mr. Pillai's remarks to me were rather shocking. He said "I would resign rather than apologise". I told him this was the most irresponsible remark to make and repeated what I had said earlier."

In view of this evidence it shall have to be held that the management had tried their best to avoid the serious and unpleasant step of enquiry for the misconduct but they were almost compelled and the contention of the union that the management was actuated with a desire to victimize the union workers does not stand to reason and shall have to be rejected.

77. I have found that the management has held a proper enquiry. There is nothing unfair, improper or in violation of the principles of natural justice. The enquiry officer has considered the whole evidence and has given his findings supported by the material before him. The enquiry officer was neither biased nor partial nor is there anything to show want of *bona fides* on either his part or the part of the management. The enquiry was not started with a desire to victimize the officers of the union. The management had found that Shri Pillai had refused to obey the orders of the superior officer continuously from the 8th April 1964 to the 13th April. Shri Pillai was guilty of insubordination and in my opinion the company was justified in passing an order discharging him from service. He is not entitled to any relief and hence my award accordingly.

No order as to costs.

(Sd.) A. T. ZAMBRE,

Presiding Officer, Central Government Industrial Tribunal, Bombay.

[No. 74/11/64-LR-IV.]

New Delhi, the 29th August 1968

S.O. 3019.—Whereas by the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 895, dated the 22nd March, 1968, the Central Government had declared the iron ore mining industry to be public utility service for the purposes of the Industrial Disputes Act, 1947 (14 of 1947), for a period of six months from the 4th March, 1968;

And whereas the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 4th September, 1968.

[No. F. 1/61/68-LRI.]

New Delhi, the 30th August 1968

S.O. 3020.—Whereas the Central Government being satisfied that the public interest so required had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 896, dated the 4th March, 1968], service in hospitals and dispensaries carried on by or under the authority of the Central Government, to be a public utility service for the purposes of the said Act for a period of six months from the 7th March, 1968;

And whereas the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said service to be a public utility service for the purposes of the said Act for a further period of six months from the 7th September, 1968.

[No. F. 1/62/68-LRI.]

S.O. 3021.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the United Commercial Bank Limited and their workmen, which was received by Central Government on the 26th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

REFERENCE No. 86 OF 1967

PARTIES:

Employers in relation to the United Commercial Bank Limited.

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers:

Shri S. B. Tiwari, Officer, Law Deptt.

Shri P. Jayaraman, Officer, Staff Deptt.

On behalf of Workmen:

Shri A. P. Singh, for the Bengal Bank Employees Federation.

STATE: West Bengal.

INDUSTRY: Banking

By an Order No. 51/35/67-LRIII, dated November 11, 1967, the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment, referred the following dispute between the employers in relation to the United Commercial Bank Limited and their workmen to this tribunal for adjudication:—

"Whether the supersession of the undermentioned employees of the United Commercial Bank, Calcutta, in matters of promotion to supervisory cadre are justified? If not, to what relief are the employees entitled and from which date?

1. Shri I. D. Upasani,
2. Shri B. D. Halder.
3. Shri C. P. Singh,
4. Shri S. C. Sarkar,
5. Shri R. D. Choubey,

6. Shri A. B. Mukerjee,
7. Shri G. N. Chaturvedi,
8. Shri Ajit Saha,
9. Shri P. S. Sankar Narayan,
10. Shri N. N. Roy,
11. Shri P. P. Ghose, and
12. Shri P. R. Roy."

2. In order to understand the nature of the dispute, it is necessary to remind myself of certain provisions regarding promotion and special allowances in two awards, namely, the Sastry award and the Desai award. The Sastry award as is well-known, was made in March, 1953 but was modified, in certain respects, by the Labour Appellate Tribunal, on appeal. The statutory period for the operation of the Sastry award, as modified, expired on March 31, 1959. Thereupon, a National Industrial Tribunal with Sri Justice Kantilal T. Desai (later Desai C.J.) as the Presiding Officer, was constituted. This later Tribunal made its award in June 1962, which award remained in operation until July 29, 1966. I need in this context also remind myself of a bi-partite settlement between the Bank Managements and their Workmen, which was arrived at on October 19, 1966.

3. Sastry award was not in favour of over-emphasising upon seniority in the matter of promotion. In paragraphs 528 and 529 of the award, Sastry Tribunal observed:

528. "*****. Some of the employees' Unions such as the Central Bank Employees' Association, Bombay, Allepey, Gonda and Madurai want that length of service should be the sole criterion for the purpose of promotions and demand promotion to officers cadre from clerical grades only. The Imperial Bank of India, Bombay Circle Employees' Union put seniority before efficiency, education and special knowledge of banking for the purpose of promotion. Some unions have suggested that promotions should be made in consultation with them. While the banks are generally prepared to agree to seniority in service, educational qualifications and special knowledge of banking all of them being regarded as main considerations for promotion, they attach great importance to efficiency and character in this connection, and press that it should be left to the management to give proper weights to the various factors."

529. We do not think that any hard and fast rules can be laid down in connection with promotions. We are definitely opposed to the suggestion that employees' unions should be consulted in connection with promotions. It cannot be supported on principle. We do not think that such consultation is likely to be helpful either. While there is no doubt that seniority in service should be one of the most important factors to be taken into account for the purpose, we are unable to agree that mere length of service alone irrespective of efficiency, educational qualifications, character and nature of responsibility required in connection with the vacancies to be filled in should be the sole or even the main criterion for promotion. Promotion is certainly not a matter which could be made automatic and a great deal of discretion by its very nature must rest with the management in this connection. It is not only difficult but very undesirable to lay down any one single principle for the exercise of this discretion. In our opinion there must be cases of employees in the banking industry as elsewhere in which efficiency of some employees does not necessarily improve with mere length of service. Nor do all employees in all cases show capacity for work involving higher responsibilities. The apprehension of the employees underlying the demand for length of service to be the sole governing factor for promotion may be due to apprehensions of nepotism and victimization of employees who take active interest in the trade union movement. No substantial proof in support of this apprehension has been laid before us, and such cases, if any, can only be dealt with in other ways or as provided by law. We however direct that even when direct recruitment to particular posts is decided on, deserving men already in service who come up to the required educational qualifications should also be enabled to compete for such recruitment by a reasonable relaxation of the rules relating to age and other restrictions, if any. We further direct that in the case of employees who are not found fit for promotion the decision should be borne out by service records of the employees, and that when a person senior in service is superseded it should be for good and cogent reasons. We recommend that such an employee should have the right to appeal to the General Manager or the Managing Director who should consider the appeal with an open mind and revise the

decision if necessary, and that such appeal should not be treated as an act of indiscipline on the part of the employee by the officers under whom he may be working."

In Desai award the question of seniority was not directly considered but was indirectly so done in the context of maintenance of a seniority list in connection with matters concerning promotion. The Tribunal quoted paragraph 529 of the Sastry award and observed:

"14.11. ***** Seniority in service though not the only factor to be considered in connection with promotion, is one of the important factors which has to be taken into account. The provisions of the Sastry Award contemplate the existence even of an appeal by a person senior in service who has been superseded.

14.12. ***** At present there are no hard and fast rules in connection with promotions. I cannot in this reference lay down whether for the purpose of promotions, employees should be considered establishment-wise, area-wise, circle-wise, state-wise, or in the country as a whole. A seniority list to be useful must be co-related to the totality of persons from whom a choice is to be made for the purpose of promotions. It is not possible for me to direct any list to be prepared on any particular basis which would be of practical use. Under the circumstances, having regard to the limited scope of the Reference, though I recognise the need for the maintenance of seniority lists, I am unable to give any directions making it obligatory on the banks to maintain seniority lists on any particular basis.*****

At the time of Sastry award, the non-officer cadre of bank employees was mainly divided into clerical and subordinate staff. The Sastry award recommended payment of special allowance to some members of both the cadres, on the following line of reasoning:

"We have laid down the scales of pay and basic allowance for clerical and subordinate staffs doing ordinary duties as such. There are however, certain posts even in these grades for which an incumbent requires special qualification or skill for the efficient discharge of his duties. An extra-payment in such cases is necessary by way of recognition of and compensation for this special skill." (Para 161).

In paragraph 162 of the award, the Sastry Tribunal observed that there were three ways by which this extra-payment might be provided for: (i) the employee may be given additional increments in the same scale (2) he may be paid a lump sum allowance in addition to his other emoluments, or (3) he may be given a higher scale leading to a higher maximum. The Sastry Tribunal expressed the opinion that on the whole it was better to adopt either the first or the second method or even a combination of both. Before the Sastry Tribunal the workers were opposed to the idea of having more than one scale, but the banks preferred two scales of pay but had objection to one scale. Although the inclination of the Sastry Tribunal was to provide for a different higher scale, it considered it simpler on the whole to solve the problem by providing for a lump sum allowance called 'special allowance'. The categories of workmen amongst clerical grade, who became eligible for special allowance were:

- (1) Computists.
- (2) Head clerks and Stenographers.
- (3) Head Cashiers : Units of 5 clerks and above.
- (4) Head Cashiers : Units of 4 clerks and below.
- (5) Assistant Cashiers (above the level of routine clerks) units of 5 clerks and above.
- (6) Assistant Cashiers (above the level of routine clerks) units of 4 clerks and below.
- (7) Cashiers in charge of cash in pay offices.
- (8) Cashiers in charge of cash in treasury pay offices, employees in charge of pay offices and sub-offices.
- (9) Supervisory, superintendents, sub-accountants departmental in charges of treasury pay offices.

So far as Graduates and holders of Banking diplomas like C.A.I.I.B. and C.A.I.B. in the clerical staff were concerned they were not given special allowance but certain increments in pay.

4. I need not deal with members of the subordinate staff, who became eligible for special allowance under the Sastry award because I am not concerned with that class of employees in this reference.

The Labour Appellate Tribunal did not disturb the scheme of special allowance as in the Sastry award.

Before the Desai Tribunal it was contended by bank employees that special allowances granted by the Sastry Tribunal were not based on rational or scientific wage differentials but on *ad hoc* basis. A further contention was raised before the Desai Tribunal that the Sastry award did not specify the nature of work to be done or the duties to be performed by persons entitled to special allowance and by adoption of different nomenclature of clerks by different banks the provisions of special allowance might be defeated. Desai Tribunal did not fully uphold the contentions but in Paragraph 5.282 made certain enhancements in special allowance and made the same payable to the following employees, namely:

1. Graduates or holders of National Diploma in Commerce.
2. Workmen who have passed Part I of C.A.I.I.B. or C.A.I.B. Examination.
3. Workmen who have passed Part II of C.A.I.I.B. or C.A.I.B. Examination.
4. Computists.
5. Stenographers.
6. Head clerks, chief clerks and passing officers.
7. Head Cashiers; units of 5 clerks and above.
8. Head Cashiers; units of 4 clerks and below.
9. Assistant cashiers (above the level of routine clerks); Units of 5 clerks and above.
10. Assistant Cashiers (above the level of routine clerks); Units of 4 clerks and above.
11. Cashiers-in-charge of cash in pay offices.
12. Cashier-in-charge of cash in treasury pay offices of the State Bank of India.
13. Employees-in-charge of pay—
 - (a) Offices of banks other than the State Bank of India.
 - (b) Employees-in-charge of pay offices and such offices of the State Bank of India.
14. Employees-in-charge of treasury pay offices of the State Bank of India.
15. Accounting Machine operators, I.B.M. machine operators, Remington Rand Accounting Machine operators, Hollerith Machine operators and Punch operators, Punch operators of the State Bank of India are excluded from the operation of this provision.
16. Godown Inspectors.
17. Tellers and audit clerks.
18. Supervisors, superintendents, sub-accountants, departmental-in-charge.
19. Cashier-clerk in Bank of Baroda, Ltd.
20. Group in charge in State Bank of India.

When Desai Tribunal award ceased to be in operation in 1966, there came the bipartite agreement of 1966. By paragraph 5.2 of the agreement it was provided:

“5.2. In supersession of paragraph 5.282 of the Desai Award the special allowances payable to workmen other than the members of the subordinate staff, for duties/responsibilities as listed in Part I of Appendix B hereto, shall be as follows:

CLERICAL STAFF

Part I

(in rupees per month)

| Categories of Workmen | Class of Banks | | |
|------------------------------------|----------------|----|----|
| | A | B | C |
| (i) Telephone Operators | 8 | 8 | 6 |
| (ii) Relieving Telephone Operators | 4 | 4 | 3 |
| (iii) Audit Clerks | 14 | 14 | 12 |

(in Rupees per month)

| Categories of Workmen | Class of Banks | | |
|--|--|----|----|
| | A | B | C |
| (iv) Comptists | 16 | 16 | 16 |
| (v) Telex Operators | 20 | 20 | 15 |
| (vi) Tellers | 27 | 21 | 16 |
| (vii) Punch Card Operators | 23 | 23 | 23 |
| (viii) Accounting Machine Operators | 35 | 35 | 32 |
| (ix) IBM, ICT (Hollerith-Power Samas) Machine Operators | 40 | 40 | 40 |
| (x) Stenographers | 40 | 40 | 30 |
| (xi) Head Clerks | 40 | 40 | 30 |
| (xii) Assistant Head Cashiers (Above the level of routine clerks) | | | |
| Units of 5 clerks and above | 25 | 21 | 14 |
| Units of 4 clerks and below | 18 | 16 | 12 |
| (xiii) Cashier-in-charge of Cash in Pay Offices or Branches | 27 | 27 | 19 |
| (xiv) Head Cashiers—Category A | | | |
| Units of 5 clerks and above | 35 | 27 | 18 |
| Units of 4 clerks and below | 27 | 20 | 14 |
| (xv) Head Cashiers—Category B | | | |
| Units of 5 clerks and above | 40 | 32 | .. |
| Units of 4 clerks and below | 32 | 25 | .. |
| (xvi) Head Cashiers—Category C | 45 | 45 | 30 |
| (xvii) Head Cashiers—Category D | 50 | 45 | .. |
| (xviii) Head Cashiers—Category E | 70 | 65 | 55 |
| (xix) Special Assistant | 75 | 70 | 62 |
| (xx) Credit Investigators, Opinion compilers, Bazar Clerks, Munshis, Translators, Supplementary Ledger Caller. | With regard both to the duties/responsibilities of an allowance (if any) paid to these categories status quo shall be maintained in such bank concerned. | | |

Part II (for Education Qualifications)

| | | |
|---|--------------|-----------------|
| (A) Graduates and/or holder of National Diploma in Commerce | 2 increments | } in the Scale. |
| (B) Part I of CAIB CAIIB Examinations | 1 increment | |
| (C) Part II of CAIB CAIIB Examinations | 2 increments | |

From the quotation above as well from Appendix B to the agreement, it will appear that there was a change of nomenclature adopted. The clerical staff adopted the glorified designation of non-subordinate staff and the names of different categories of workmen within that staff were also changed. In implementation of the change of nomenclature or designation, the bipartite award provided:

"5.12. Banks, will, as early as possible, use in all their records, correspondence, etc., the nomenclatures, used in the Appendix 'B' hereto for the appropriate duties.

Reallocation of Duties

5.13. The standardization of nomenclatures as aforesaid should not by itself lead to withdrawal of special allowances from persons already drawing them except where specifically provided in the Settlement. Subject to this banks will be free to reallocate the duties of any workman to bring them in conformity with the duties specified in the Appendix 'B' hereto. Where for the first time a special allowance provided for in this Settlement is introduced in an office, in re-allocating the duties, preference will be given from among those who are already performing the appropriate duties. In specifying the duties it is not the intention that in each office/branch posts should be created in each category for which special allowance has been agreed to.

Explanation:

(i) In cases where a workman, not in receipt of a special allowance at the date of this Settlement has been performing duties/responsibilities which will now attract a special allowance in terms of this Settlement, banks will be

free to withdraw such duties/responsibilities and in that case no special allowance will be payable. Alternatively such a workman may be required to perform if necessary, by reallocation, the duties/responsibilities which attract the special allowance and in that case the appropriate special allowance will be payable to him.

- (ii) In cases where a workman, in receipt of a special allowance at the date of this Settlement has been performing duties/responsibilities which under this Settlement fall under more than one category, banks will be free to re-allocate his duties/responsibilities either by withdrawing or including the duties/responsibilities for which a higher allowance is payable under this Settlement. In such a case the appropriate allowance for the revised duties/responsibilities will be payable."

Changes were also made in the special allowance payable to subordinate staff but with that I am not concerned in this reference. The agreement further provided:

- "5.6. The special allowances prescribed above are intended to compensate a workman for performance or discharge of certain additional duties and function requiring greater skill or responsibility, over and above the routine duties and functions of a workman in the same cadre. In order to be entitled to a special allowance, such additional duties and functions should constitute the normal part of the duties and functions performed or discharged by a workman. Special allowances are not intended to be paid for casual or occasional performance or discharge of such duties/functions. It would, however, not be necessary that a workman should continue to perform such duties or discharge such functions, whole time, in order to be entitled to such allowance.
- 5.7. The additional duties and functions involving greater skill or responsibility, which would entitle a workman to a special allowance, are more particularly enumerated, for each category of workmen, in Appendix 'B' hereto. Special allowances will be payable for all or any of the duties listed in Appendix 'B', except where it is specifically provided therein that for a particular category the additional duties entitling to a special allowance, include or involve all the duties listed under that category.
- 5.8. A workman will be entitled to a special allowance if he is required to perform duty/duties and/or undertake the responsibilities listed against the category, irrespective of his designation/nomenclature or any general authority vested in him.
- 5.9. A workman will be entitled to a special allowance only so long as he is in charge of such work or the performance of such duties which attract such allowance. Whether a workman can be asked to cease to do such work or discharge such duties and consequently cease to draw such allowance, will depend upon the terms of his employment. For instance a workman who is employed permanently as a Head Clerk or Stenographer cannot be deprived of his special allowance by asking him to work as an ordinary clerk or asking him not to work as a Head Clerk or Stenographer. If, however, a recipient of a special allowance wants to give up the work or duties which entitle him to the special allowance, he shall, if his request is granted, cease to draw the special allowance."

With reference to the category of workmen designated as Special Assistants referred in Paragraph 5.2 clause xix, the following special provisions were made in the bipartite agreement:

- 5.14. The following provisions shall apply to "Special Assistants" referred to in clause 5.2 (xix):
- (i) Those workmen who are at the date to this Settlement drawing the special allowance laid down for "Supervisors, Superintendents, Department-in-Charge, etc." in paragraph 5.282/18 of the Desai Award will (insofar as they do not fall under Head Cashier—Category E) draw the special allowance agreed upon for "Special Assistants" but banks will be free to entrust them with the duties now agreed to for Special Assistants if they are not already performing them.
- (ii) The duties and responsibilities now agreed to for Special Assistants shall not be regarded as supervisory duties and the employees required to perform these duties and discharge these responsibilities shall be regarded as "Workmen" for all purposes irrespective of their emoluments, designations or nomenclature in different banks."

The duties of Special Assistants involve, as stated in Appendix 'B' to the agreement:

APPENDIX 'B'

(xix) *Special Assistants*—Their duties involve—

- (i) Passing independently Cash, Clearing and Transfer cheques, vouchers, etc. (whether credits or debits) up to and including Rs. 5,000/- (or any higher limit fixed by the bank in its own discretion). Passing will include verification of signatures and scrutiny as to the correctness of endorsements on and other particulars of such instruments;
- (ii) Signing vouchers, cheques, drafts, pay orders, advices, bill schedules, statements, certificates, etc.;
- (iii) Checking all vouchers, advices, statements, bills, returns, books of accounts, etc.;
- (iv) Checking current, savings and other ledgers, PROVIDED that if any additional allowance is paid to any employee's under any existing system in a bank for ledger-checking, such payment and ledger checking system shall continue undisturbed, and such continuance shall preclude any claims by a workman for a change in status;
- (v) Discharging, endorsing cheques, bills, etc.;
- (vi) Checking the coding and decoding of telegrams (excluding check symbols or cyphers);
- (vii) Inspecting godowns (only in banks where such work is already being done by workmen)."

The scale of pay of clerical or non-subordinate staff was also revised for A class Banks in Area I (the class of Bank with which I am concerned in this reference). The revised scale of pay was:

| |
|---|
| Rs. 154—6—166—7—201—12—300—15—324—EB—15—354—20—414—23—460 |
| (1-2) 5 9 1 2 3 2) Years |

5. Keeping in view the aforesaid evolutions, I now turn to the facts of the present reference. In paragraphs 2 and 3 of the written statement, filed by the Bengal Bank Employees Federation (hereinafter referred to as the Federation), it is stated that, Messrs I. D. Upasani, B. D. Haldar, C. P. Singh, S. C. Sarkar, R. D. Choubey, A. B. Mukherjee, G. N. Chaturvedi, Ajit Saha, P. S. Sankar Narayan, M. N. Roy, P. P. Ghose and P. R. Roy, (all members of the United Commercial Bank Employees Union, affiliated to the Federation) work in the local branches and the Head office of the United Commercial Bank Ltd. in the clerical cadre. It is further stated in paragraphs 4 and 5 of the written statement that the employer Bank wanted to promote a number of persons, junior in length of service to the abovenamed twelve persons, from the clerical cadre to the Supervisory cadre. This was being done, it was said, following a policy of pick and choose. The Federation thereupon protested to the General Manager of the employer Bank but to no effect.

6. In paragraph 1 and 2 of the written statement filed by the employer Bank, it was stated:

"1. The schedule of the order of the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment), New Delhi, dated 10th November, 1967, refers to supersession of certain employees of the United Commercial Bank Ltd., Calcutta, in the matter of promotion of supervisory cadre. There is no supervisory cadre either in the Sastry Award or the Desai Award and consequently promotion to this cadre and the further consequence of supersession as referred to in the schedule does not arise.

2. Promotion is essentially a transfer or transposition of an employee from a lower cadre to a higher cadre. The grant of a special allowance for a particular post in a cadre does not take that post out of that cadre. Hence, no promotion is involved within the meaning of the provisions of the Sastry Award or Desai Award and, therefore, the provisions of these Awards are not applicable and cannot be relied upon."

It is further stated in paragraph 11 of the said written statement:

"11. *****It is denied that there is any supersession or discrimination or unfair labour practice as alleged or at all. It is also denied that the Bank has violated paragraph 529 or any other provisions of the Sastry Award as alleged or at all.*****"

The parties to the dispute did not examine any witnesses and did not also exhibit any documents. This was because the following points were admitted before the at the time of hearing:—

- (a) it was admitted that the 12 persons named in the column headed "name of person superseded" in Annexure A to the written statement of the Federation were not re-allocated such duties as would entitle them to special allowance.
- (b) it was admitted that most of the persons named under column headed in the aforesaid annexure "by whom superseded" were re-allocated such duties as entitled them to special allowances. It was further admitted that they were all junior in length of service to the persons who were alleged to have been superseded.
- (c) it was admitted that excepting Messrs Kali Sahay Mishra, Kesho Prasad Singh, Asoke Kr. Paul, Kasuna Pati Pandey, Bijon Kumar Mukherjee, H. L. Tribedi, Amalendu Ghoshal, Ramsundar Singh, Jagadish Mishra, other persons named under column "by whom superseded" were made Special Assistants with an allowance of Rs. 75 over monthly wages.
- (d) some of the excepted persons abovenamed may have been made Head Cashiers. But there is no clear admission on this point.

There were some disputes raised about some of the dates of appointment of the persons who were alleged to have superseded others. The disputed dates were later on corrected by agreement and the agreed dates are noted in the order, dated August 17, 1968, in the ordersheet. These corrections are, however, immaterial, because irrespective of whether I proceed on corrected or uncorrected dates, the fact remains that junior persons were put in positions carrying special allowance in preference to senior persons.

7. The question for consideration is whether by what was done there took place any supersession of the employees, named in the order of reference, in matters of promotion. Now, promotion is advancement in rank. To promote is essentially a management function. In the explaining paragraphs 528 and 529 of the Sastry Award Sinha J (as the present Chief Justice of Calcutta then was) observed in *Chartered Bank vs. Central Government Industrial Tribunal* (65 C.W.N. 730) that promotion of an employee was not a matter which could be made automatic and great deal of discretion, in its very nature, must rest with the management and that it was not only difficult but very undesirable to lay down any single principle for the exercise of this discretion. If an employer uses his discretion *bona fide* and in accordance with principle laid down in the rules, it is not for the Tribunal to evaluate the respective qualifications of the workmen concerned.

8. The only grievance made on behalf of the workmen was that seniority was not respected in the matter of promotion—not that lesser qualified persons were promoted out of favouritism or nepotism. In other words, the argument was that the persons who were promoted and the persons who were superseded were equally qualified but the persons who had been superseded had served for longer time and should have been promoted.

9. In reply, it was argued on behalf of the employer Bank that there was no question of promotion involved in this matter. All the persons who had been made Special Assistants or head cashiers and the other persons who were alleged to have been superseded were all members of the clerical or non-subordinate staff and even now continue so to be. They are all on the same pay scale. But some of them were given special kinds of work to do, which under the Sastry and Desai Awards and the bipartite agreement entitled them to some special allowance. Alternatively, it was argued, that if it was held that any element of promotion was involved in what was done the same was done for good and valid reasons, on efficiency-cum-seniority basis.

10. The alternative argument may be shortly disposed of. There is no evidence that treated as promotion, the same was made on efficiency-cum-seniority basis. I have therefore no hesitation in discarding the alternative argument.

11. The principal argument on behalf of the employer Bank was sought to be repelled by the Federation with the contention that Special Assistant and Head Cashiers were all entrusted with duties of supervisory nature and were superior to other clerks in office work. Thus, they not only draw higher emoluments, because they get special allowance over and above their pay but are also entrusted with more responsible duties which enable them to boss over others performing routine clerical duties. Thus, if anybody be placed in a special allowance carrying position, he is virtually promoted if not technically to made.

12. In my opinion, the principal argument made on behalf of the employer Bank should succeed. The work in a banking concern is such that some clerks must necessarily be kept for checking, revising or passing of what others have done. That is why clerks such as head clerks or special assistants are employed. It is also necessary to keep some clerks for some exclusive duties such as holding the cash and valuables and the keys. The reason why to clerks in charge of such special duties, special allowances are paid, I have already quoted from Sastry Award. Now, which clerk should be put in charge of what sort of duty, should be left to the discretion of the employer Bank, regard being had to the special aptitude, skill, educational qualification and efficiency of the clerk concerned. The employer bank should also have the liberty of trying a clerk from position to position in finding out where finally to fix him up. In so doing a clerk may be put in charge of duties which entitle him to a special allowance. But such placing is not promotion.

13. Clerical category or non-subordinate category is one unit of service. Promotion means promotion to a category higher than clerical category. Anybody who is in the clerical category has the right to reach the top salary in that unit or category, in the absence of an efficiency bar, which must be crossed by show of efficiency. So long as the clerk is not taken out of the clerical cadre and placed in another cadre, which carries a different and higher scale of pay, there can be no question of promotion of a clerk, although he may be placed to the position of checking clerk, guarding against possible mistakes of others.

14. In the instant case by chosing some junior clerk to do the duties of head cashier or Special assistants, they were not promoted. They remained what they always were, namely, clerks at a particular scale of pay, same as the pay scale of other clerks who were not made head cashiers or Special assistants. The fact that some special allowance became payable to them under certain awards or agreements does not make any difference.

15. Since no promotion took place no question of supersession of some in the matter of promotion arises. The workmen named in the order of reference are therefore not entitled to any relief. I award accordingly.

Sd/- B. N. BANERJEE,
Presiding Officer.

Dated the August 21, 1968.

[No. 51/35/67-LR.III.]

ORDERS

New Delhi, the 30th July 1968

S.O. 3022.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Bokna Iron Ore Mines of Messrs D.K. Bai, Post Office Barajmada, District Singhbhum and their workmen in respect of the matters specified in the Schedule hereto annexed ;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal (No. 3), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Bokna Iron Ore Mines of Messrs D.K. Bai, Post Office Barajmada, District Singhbhum was justified in not granting to the workmen I and II interim wages and wages in accordance with the final recommendations of the Central Wage Board for Iron Ore Industry, with effect from the 1st January, 1964 the 1st April, 1966 and the 1st January, 1967 respectively ?

If not to what relief are the workmen entitled ?

[No. 24/11/68-LR.I.]

New Delhi, the 1st August 1968

S.O. 3023.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers specified in Schedule I and their workmen in respect of the matters specified in the Schedule II hereto annexed ;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Jawan Singh Ranawat as Presiding Officer with Headquarters at Jaipur, and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE I

1. M/s. Associated Stone Industries (K) Ltd., Ramganjmandi.
2. Shri Ramji Das Ramrich Pal, Quarry Owners, Modak Station, Kota.
3. Shri Motilal Chedilal, Quarry Owners, Modak, Kota.
4. M/s. Raj Flooring Stone Co., Ramganjmandi.
5. M/s. Pirkhan Chandkhan, Modak, Kota.
6. M/s. United Stone Co., Modak, Kota.
7. Parvi Sahakari Sharamik, Teka Pushan Udyog, Sahakari Samiti Ltd., Suket, Kota.
8. West Suket Labour Contractors Society, Ltd., Suket, Kota.

SCHEDULE II

Whether the demand of the Rashtriya Mazdoor Sangh Ramganjmandi Rajasthan, for the linking of the dearness allowance with the cost of living indices as recommended by the Mathur Committee (Expert Committee on consumer price indices for industrial workers in Rajasthan and linking of dearness allowance with consumer price indices appointed by the Government of Rajasthan and the payment of dearness allowance on the basis of the cost of living indices from April, 1966 to the workmen employed in the mines of the management mentioned in Schedule I above is justified ? If so, what should be the quantum of dearness allowance and from what date, should it be payable ?

[No. 36/47/67-LR.I]

S.O. 3024.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the New Zealand Insurance Co. Ltd., Bombay and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

SCHEDULE

Whether the management of New Zealand Insurance Company Limited, Bombay is justified in withdrawing the operation of the Staff Profit sharing Scheme with effect from the 31st May, 1968 ? If not, to what relief are the employees entitled ?

[No. 25/26/68-LR.III.]

New Delhi, the 2nd August 1968

S.O. 3025.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs Shodhan Hudki Mine, Balaghat and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

1. Whether the action of Sarvashri J. A. Trivedi Brothers, the management of Shodhan Hudki Manganese mines, Balaghat District in dismissing Shri Keja, S/o Jiwan, Ex-pump driver, with effect from the 11th February, 1968, was justified ?
2. If not, to what relief is the workman entitled ?

[No. 35/12/68-LR.I.]

S.O. 3026.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Rourkela Steel Plant of Hindustan Steel Private Limited, Rourkela and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

THE SCHEDULE

1. Whether in view of the application of the recommendations of Wage Board for Iron and Steel Industry, the workers in the Mines are entitled to any mining allowance also?
2. Whether the wage structure contained in the recommendations of the Wage Board for Iron and Steel Industry applicable to the Steel Industry with effect from the 1st April, 1965, which the management have agreed to apply also to the mining establishments from the 1st January, 1967, should be made applicable to the mining establishments from the 1st April, 1965 also?

[No. 37/21/67-LRI.]

S.O. 3027.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs Kalyanpur Lime Cement Works Limited, Banjari and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Shri Ramdeo Singh, Trolleyman with effect from the 26th May, 1966 by the management of Messrs Kalyanpur Lime Cement Works Limited, Banjari was justified? If not, to what relief is he entitled?

[No. 36/14/68-LRI.]

New Delhi, the 5th August 1968 .

S.O. 3028.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Punjab National Bank Limited, New Delhi and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

SCHEDULE

“Whether the demand of the Punjab National Bank Workers Organisation, Delhi for permanent absorption of Shri B. K. Kakkar, ex-Stenographer, Loans Department of the Punjab National Bank Ltd., New Delhi under para 20.9 of the Pipartite settlement of the 19th October, 1966 is justified? If so, to what relief is the workman entitled and from what date?

[No. 23/54/68-LR.III.]

S.O. 3029.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Punjab National Bank Limited, Civil Lines, Jullundur, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Chandigarh, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of the Punjab National Bank Limited, was justified in transferring back Shri Tulsi Ram Chauhan, from the Industrial Area branch to the Chawra Bazar branch of the Bank at Ludhiana in terms of their letter No. S/19637 dated the 29th April, 1967? If not, to what relief is he entitled?

[No. 23/17/68-LRIII.]

New Delhi, the 8th August 1968

S.O. 3030.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the New India Assurance Company Limited, Kasurba Gandhi Road, Kanpur, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri R. N. Sharma shall be the Presiding Officer with headquarters at Lucknow and refers the said dispute to the said Tribunal for adjudication.

SCHEDULE

Whether Sarvashri L. N. Gupta, S. M. Z. Haq, S. N. Tripathi, J. B. Srivastava, I. M. Mehta and M. C. Gupta, graduate stenotypists of the New India Assurance Company Limited are entitled to two additional increments as per existing terms and conditions of service in the said company? If so, to what relief are they entitled?

[No. 70/13/67-LRIII.]

New Delhi, the 22nd August 1968

S.O. 3031.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Shri Vinod Kumar, Monopoly Contractor, Inganijharan Manganese Mines of Messrs. Bhanja Minerals (P) Limited, Post Office Chamakpur, District Keonjhar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of Shri Vinod Kumar, Monopoly Contractor, Inganijharan Manganese Mines of Messrs. Bhanja Minerals (Private) Limited, Post Office, Chamakpur District Keonjhar in enhancing the price of rice supplied to the daily rated workmen was unjustified? If so, to what relief are the workmen entitled?

[No. 35/11/68-LRI.]

New Delhi, the 26th August 1968

S.O. 3032.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the United Commercial Bank Limited, Nazamuddin and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

SCHEDULE

"Whether the action of the management of the United Commercial Bank Limited in not allowing Shri Lakshmi Dutt, peon, Nizamuddin branch to work as Daftry in leave vacancy with effect from the 22nd April, 1968 was justified? If not to what relief is the workman entitled?"

[No. 23/52/68/LR.III.]

S.O. 3033.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Andhra Bank Limited, Hyderabad (Andhra Pradesh) and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, Whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Mohammad Najmuddin, as Presiding Officer with headquarters at Afzal Lodge, Tilak Road, Ramkote, Hyderabad-1, and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

"Having regard to para 5.356 of the Award of the National Industrial Tribunal (Bank disputes), whether the management of the Andhra Bank Ltd., Hyderabad was justified in refusing the pay of Shri S. V. Sivaramakrishna, a workman in the Machilipatnam Branch of the Bank and insisting on the recovery of Rs. 8782.48 P from his pay? If not, to what relief is the workman entitled?"

[No. 23/4/68-LR.III.]

New Delhi, the 29th August 1968

S.O. 3034.—Whereas consequent on the transfer of Shri E. Gonsalves, a vacancy has occurred in the office of the Presiding Officer of the Labour Court at Madras, constituted by the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 461, dated the 5th February, 1963;

Now, therefore, in pursuance of the provisions of section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri T. A. Ramakrishna Madhaliar as Presiding Officer of the Labour Court constituted as aforesaid.

[No. F. 1/53/68-LRI.]

New Delhi, the 30th August 1968

S.O. 3035.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Management of Messrs. Bikaner Gypsum Limited, Bikaner and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Gopal Narain Sharma, as the Presiding Officer with headquarters at Jaipur and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the management of Messrs, Bikaner Gypsum Limited, Bikaner was justified in laying off the 14 workmen, mentioned below, employed in their Jamsar and Dhirera Mines in the manner and from the date noted against each. If not, to what relief are the workmen entitled ?

| Sl. No. | Name of the Mine | Name of the workmen | Manner of lay off | Date of commencement of lay off |
|---------|------------------|--|--------------------|---------------------------------------|
| 1 | Jamsar | Shri B. S. Bedi, Jr. Apprentice Engineer | With compensation. | 24-10-1967 |
| 2 | " | Shri A. K. Biswas, Apprentice | Do. | 24-10-1967 |
| 3 | " | Shri P. K. Bose, Apprentice | Do. | 24-10-1967 |
| 4 | " | Shri S. Bose, Apprentice | Do. | 24-10-1967 |
| 5 | " | Shri A. Ghosh, Apprentice (survey) | Do. | 24-10-1967 |
| 6 | " | Shri Rampal, Carpenter | Do. | 25-12-1967 |
| 7 | " | Shri Dhania, Mate | Do. | 25-12-1967 |
| 8 | " | Shri Gordhan, Mate | Do. | 25-12-1967 |
| 9 | Dhirera | Shri Bhera Ram, Driver | Do. | 29-10-1967 8-12-1967 |
| 10 | " | Shri Gurmit Singh, Driver | Do. | 29-10-1967 |
| 11 | " | Shri P. R. Mazumdar, Supervisor | Do. | 15-11-1967 23-12-1967 |
| 12 | " | Shri Mool Singh, Dresser | Do. | 15-11-1967 |
| 13 | " | Shri Keshu Ram, Generator Operator | Do. | 18-11-1967 29-11-1967 6-12-1967 |
| 14 | " | Shri Chotu Khan, Helper, 3054 | Do. | 13-11-1967 |

[No. 24/16/68-LR1.]

O. P. TALWAR, Under Secy.

(Department of Labour and Employment)

New Delhi, the 5th August 1968

S.O. 3033.—PWA/Air Service Rules/68.—In exercise of the powers conferred by sub-section (2), (3) and (4) of section 26, read with section 24 of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

1. **Short title, application and extent.**—(1) These rules may be called the Payment of Wages (Air Transport Services) Rules, 1968.

(2) They shall apply in respect of payment of wages to persons employed in an air transport service either directly by the owner or through a contractor engaged by such owner.

(3) They shall extend to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Payment of Wages Act, 1936 (4 of 1936);

(b) "authority" means an authority appointed under sub-section (1) of section 15;

- (c) "Chief Labour Commissioner" means an officer appointed as such by the Central Government;
- (d) "contractor" means a person engaged under a contract, by the owner of an air transport service, to perform certain functions in relation to the air transport service, and includes a sub-contractor;
- (e) "court" means the court mentioned in sub-section (1) of section 17;
- (f) "deduction for breach of contract" means a deduction made in accordance with the proviso to sub-section (2) of section 9;
- (g) "deduction for damage or loss" means a deduction made in accordance with clause (c) of sub-section (2) of section 7;
- (h) "employed person" means a person employed in an air transport service to whom the Act applies;
- (i) "employer" means the owner of an air transport service and includes a contractor, agent, manager or any other person responsible under section 3 for the payment of wages.
- (j) "Form" means a form appended to these rules.
- (k) "Inspector" means an Inspector appointed under section 14.
- (l) "Regional Labour Commissioner" means an officer appointed as such by the Central Government.
- (m) "section" means a section of the Act.
- (n) words and expressions used in these rules and not defined herein shall have the same meanings respectively assigned to them in the Act.

3. Notice of opening, abandonment, discontinuance, resumption and change in the ownership, addresses, etc.—(1) When an air transport service has been opened, the employer shall forthwith communicate the actual date of opening to the Regional Labour concerned notice in Form I.

(2) Where it is intended to abandon an air transport service or to discontinue it for a period exceeding 60 days, the employer shall, not less than 40 days before such abandonment or discontinuance give to the Regional Labour Commissioner concerned, a notice in Form I stating the reasons for the proposed abandonment or discontinuance and the number of persons likely to be affected thereby;

Provided that when an air transport service is abandoned or discontinued before the said notice was given, or when the discontinuance exceeds 60 days due to unforeseen circumstances, the notice shall be given forthwith.

(3) When an air transport service has been abandoned or discontinued for a period exceeding 60 days, the employer shall, forthwith communicate the actual date of abandonment or discontinuance, to the Regional Labour Commissioner concerned.

(4) Where it is intended to resume an air transport service after abandonment or after discontinuance for a period exceeding 60 days, the employer shall, not less than 30 days before the resumption of transport operations, give to the Regional Labour Commissioner concerned notice in Form I.

(5) Where an air transport service has been resumed the employer of the air transport service shall forthwith communicate the actual date of resumption to the Regional Labour Commissioner concerned.

(6) When a change occurs in the name or ownership of an air transport service or in the address of the owner, the employer shall, within seven days from the date of such change, give to the Regional Labour Commissioner concerned, a notice in Form I.

Provided that where the owner of an air transport service is a firm or other association of individuals, a change—

- (i) of any partner, in the case of a firm;
- (ii) of any member, in the case of an association;
- (iii) of any director, in the case of a public company; or
- (iv) of any shareholder in the case of a private company;

shall also be intimated to the Regional Labour Commissioner concerned within seven days from the date of such change.

4. Register of fines.—(1) Every employer who desires to impose fine on the employed persons shall obtain the approval of the Regional Labour Commissioner concerned to a

list of acts and omissions in respect of which fines may be imposed. The Regional Labour Commissioner concerned shall be the authority competent to approve, under sub-section (8) of section 8, the purposes for which the amount of fines realised may be expended.

(2) Every employer who has obtained approval to the list of acts and omissions under sub-rule (1) shall maintain a register of fines in Form II.

(3) The list of acts and omissions in respect of which fines may be imposed, shall be entered in the register of fines at the beginning.

(4) At the beginning of the register of fines, there shall also be entered, serially numbered, the approved purpose or purposes on which the amount of fines realised is to be expended.

(5) At the end of every month, the amounts realised as fines shall be totalled and carried forward after deduction of disbursement, if any, as per Part II of Form II.

(6) When any disbursements are made from the amounts of the fines realised, a deduct entry of the amount so expended shall be made in the Register of Fines and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved, the entry of the disbursement shall also indicate the purpose for which it is made.

(7) The register of fines shall be kept at the establishment or as near to it as possible and maintained up-to-date. Where no fine has been imposed on any employee in a wage period, a nil entry shall be made across the body of the register at the end of the wage period indicating also in precise terms the wage period to which the nil entry relates.

5. Register of deductions for damage or loss.—A register of deductions for damage or loss in Form III shall be kept at the establishment or as near to it as possible and maintained up-to-date. Where no deduction has been made from the wages of any employed person in a wage period, a nil entry shall be made across the body of the register at the end of the wage period, indicating also in precise terms the wage period to which the nil entry relates.

6. Muster roll and register of wages.—Every employer shall maintain a muster roll and a register of wages in Forms IV and V respectively or a Muster Roll-cum-register of Wages in Form VI. These records shall be maintained up-to-date and kept at the establishment or as near to it as possible. The attendance of an employed person shall be marked not later than one hour after the employed person commences work for the day.

7. Combined form of registers.—Notwithstanding anything contained in these rules, where mechanised pay rolls are introduced for better administration or a combined (alternative) form is sought to be used by an employer to avoid duplication of work for compliance with the provisions of any other Act or rules framed thereunder, and alternative suitable form may be used in lieu of any of the forms prescribed under these rules, with the prior approval of the Chief Labour Commissioner (Central).

8. Preservation and Maintenance of register.—(1) Every register maintained under the Act or these rules shall be preserved for a period of three years after the date of the last entry made therein.

(2) The registers maintained under the Act or these rules shall be maintained in English or in Hindi, but where a register is maintained in Hindi, a true translation thereof in English shall also be maintained.

9. Production of registers and records.—All registers and records required to be maintained under these rules, shall be produced by the employer on demand before the Inspector:

Provided that where an establishment has been closed, the Inspector may demand the production of registers and records in his office or such other public place as may be nearer to the employer.

10. Places for displaying notices.—The Inspector shall specify such place or places in the establishment as he thinks fit (hereinafter referred to as the specified place or places) for the display of notices and lists under rules 11 and 12.

11. Notice of dates of payment.—(1) The employer shall display at a conspicuous place outside his office and at the specified place or places, notices in English or Hindi and in

the language, if that be not Hindi, of the majority of the persons employed at such place or places showing:—

- (i) for not less than two weeks in advance, the days on which wages are to be paid; and
- (ii) the rates of wages and scales of allowance payable to persons employed in Form VII.

Copies of all such notices and alterations therein shall be sent to the Inspector.

(2) The employer shall display outside his office and at the specified place or places, a notice showing the name and complete address of the Inspector having jurisdiction over the establishment.

12. Lists of Acts and Omissions.—The employer shall display outside his office and at the specified place or places, a copy in English, or Hindi or in the language, if that be not Hindi, of the majority of persons employed, the list of acts and omissions approved under rule 4.

13. Persons authorised to impose fines.—(1) No fine shall be imposed by any person other than the employer or a member of his staff authorised by him in writing in this behalf. A copy of such authorisation shall be duly sent to the Inspector concerned.

(2) In the case of persons employed by a contractor, no fine shall be imposed by any person other than the contractor:

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than fifty persons in one locality, may, with the approval of the Regional Labour Commissioner delegate his powers to impose fine to his representative in that locality.

14. Procedure in imposing fines and deductions.—(1) No fine shall be imposed, except in accordance with the procedure laid down in any rules, regulations or certified standing orders in force in the establishment and until the employed person has been given an opportunity in writing to show cause against such imposition and it has also been established that he was guilty of the act of omission or commission alleged against him.

(2) No deduction for damage or loss shall be made from the wages of an employed person except in accordance with the rules or regulations of the establishment or certified standing orders, in force in the establishment and until he has been given an opportunity to show cause against such deduction and it has also been established that the damage or loss sustained by the employer is directly attributable to the neglect or default of the employed person.

(3) No fine shall be imposed on, and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person competent to impose the fine or to make deduction has explained personally to the said person, the act or omission or the damage or loss, in respect of which the fine or deduction is imposed or made and the amount of fine or deduction which it is proposed to impose or make and the employed person has been given a reasonable opportunity of being heard in the presence of at least one more person.

5. Deduction under the proviso to sub-section (2) of section 9.—(1) No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

- (2) No such deduction shall exceed the wages of the employed person for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment or certified Standing Orders.
- (3) No such deduction shall be made from the wages of any employed person unless this rule has been displayed in English or Hindi and in the language, if that be not Hindi, of the majority of the employed persons, outside the office of the establishment and at the specified place or places concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made.
- (4) No such deduction shall be made from the wages of any employed person unless a notice has been displayed outside the office of the establishment and at the specified place or places, at least one week before such deduction is made, giving the names of the persons from whom the deduction is proposed to be made, the number of day's wages to be deducted and the conditions if any, on which the deduction will be remitted.

Provided that where the deduction is proposed to be made from all the persons employed in any department or section of the establishment, it shall be sufficient, in lieu of giving the names of such persons in the department or section, to specify the department or section affected.

- (5) If any conditions have been specified in the notice displayed under sub-rule (4), no such deduction shall be made from any person who has complied with such conditions.

16. *Annual Return.*—Every employer shall send a return in Form VIII so as to reach the Regional Labour Commissioner concerned not later than the 1st of February following the end of the year to which it relates endorsing simultaneously a copy thereof to the Inspector having jurisdiction over the establishment.

17. *Advances to employed persons.*—

- (1) An advance of any nature (including advances for travelling allowance or conveyance allowance) shall not ordinarily exceed two calendar months' wages of the employed person. In exceptional circumstances, the amount of such advance, may with the previous sanction of the Regional Labour Commissioner concerned be made to the extent of ten calendar months' wages.

The advance may be recovered in instalments by deduction from wages of the employed person spread over not more than twelve months in the case of an ordinary advance and sixty months in the case of an advance granted in exceptional circumstances. In no case shall the amount of an instalment exceed one fourth of the wages earned in a wage period.

- (3) The amount of all advances sanctioned and repayments thereof shall be entered in a register in Form IX which shall be maintained upto date and kept at the establishment or as near to it as possible.

18. *Loans for house building and other purposes.*—(1) A loan may be granted by the employer to an employed person for the purpose of :—

- (a) building a house or for effecting repairs in and extension of, an existing house; or
- (b) purchase of a built house or of a plot for building a house, or
- (c) the marriage of the employed person, his son or daughter; or
- (d) treatment of prolonged illness of the employed person or of a member of his family

(2) (i) A loan for the purposes specified in clause (a) of sub-rule (1), other than for the purposes of effecting repairs in an existing house and for the purposes of clauses (b) and (c) of the said sub-rule shall not exceed an amount equal to thirty-six calendar months wages of the employed person or ten thousand rupees whichever is less.

(ii) For the purpose of effecting repairs to an existing house, the amount of loan shall not exceed three thousand rupees.

(iii) The amount of loan for the purposes specified in clause (d) of sub-rule (1) shall not exceed a sum equivalent to four calendar months wages of the employed person or one thousand rupees whichever is less.

(iv) Interest on all such loans shall not exceed 6% per annum.

(3) The amount of loans sanctioned under sub-rule (1) and repayments thereof together with interest thereon shall be entered in a register in Form X which shall be maintained upto-date and kept at the establishment or as near to it as possible.

19. *Procedure, costs and court fees.*—The procedure to be followed by the authority and the court, the scales of costs which may be allowed in, and the amount of court fees payable in respect of the proceedings before such authority or court, shall be such as may from time to time be determined by rules as made by the State Government under the Act in respect of the authority or the court concerned.

20. *Abstracts.*—The abstracts of the Act and the rules to be displayed under section 25 shall be as specified in form XI and shall be in Hindi—and in the language if that be not Hindi—of the majority of the employed persons.

21. *Penalties.*—

(1) Whoever being required under these rules to maintain any register or record or to furnish any information return, fails to do so, or makes a false entry therein shall, for each such offence, be punishable with fine which may extend to five hundred rupees: provided that an employer who maintains such registers and records, or furnishes the required return without making the necessary entries therein, shall be punishable with fine which may extend to two hundred rupees.

(2) Whoever contravenes the provisions of rules 11 and 12 shall be punishable with fine which may extend to two hundred rupees.

"FORM I"

(See rule 3)

Notice of opening, Abandonment, discontinuance, resumption and change in the ownership, addresses etc.

From

.....

.....

To

The Regional Labour Commissioner (Central)

.....

Sir,

I have to furnish the following particulars in respect of*.....at
.....establishment of.....(owner).

1. In the case of change of name of establishment Old name of establishment.....date of change.....

2. (a) Situation of the establishment : Village.....
Police Station.....
Sub-Division (Taluk).....
District.....State.....

(b) In the case of new establishment, particulars of situation of establishments :
Post Office.....Telegraph Office.....
Railway Station.....Rest House.....
(Give distance therefrom) means of travelling.....

3. (a) Name and Postal address of Present/Previous†

(i) Owner.....

(ii) Managing Agent, if any.....

(iii) Agent, if any.....

(iv) Manager.....

(v) In case of change, date of change.....

4. Date on which it is intended to open/resume/abandon/discontinue ‡ the establishment.....

5. Actual date of opening/reopening/abandonment/discontinuance ‡ of the establishment.....

6. No. of persons likely to be effected.....

Yours faithfully,

Signature

Designation : Owner/Agent/Manager

Date.....

INSTRUCTIONS

*Mention the matter to which the notice refers.

† To be filled in only when the notice refers to a change and only against the item in respect of which notice is given.

‡Delete whatever is not applicable.

FORM II
[See rule (2)]
Register of Fines

PART I

Name of Establishment.....

| Serial No. | Name of em- ployed person | Father's or Husband's name | Nature of employment | Rate of wages | Wages earned during the wage period | Act of omission for which fine imposed | Fines | | | Remarks |
|---------------|------------------------------|----------------------------------|-------------------------|------------------|---|---|---|--------------------------------|--------------------------------------|---------|
| | | | | | | | Whether woman showed cause if so enter date | Date and amount of fine. | Date on which fine is realised | |
| I | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |

PART II

Particulars of Disbursement of fines

| Date of disbursement | Amount of disbursement | Purpose for which amount disbursed | Remarks. |
|----------------------|------------------------|------------------------------------|----------|
| 1 | 2 | 3 | 4 |

FORM III

(See rule 5)

Register of Deductions for damage or loss caused to the employer by the neglect or default of the employed persons.

Name of Establishment.....

| Serial No. | Name of employed person | Father's or Husband's name | Nature of employment | Damage or loss caused and its value | Whether worker showed cause against deduction or not, if so, enter date | The name of the person in whose presence a workmen's explanation is heard in respect of an employee engaged by a contractor | Date and amount of deduction imposed | No. of instalments, if any | Date on which total amount realised | Remarks |
|------------|-------------------------|----------------------------|----------------------|-------------------------------------|---|---|--------------------------------------|----------------------------|-------------------------------------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |

Mustor Roll

(See Rule 6)

Name of Establishment.....

Name and address of employer.....

Location

Post Office:

Wage period from..... to.....

| Serial No. | Name of employed person | Designation | Father's/ Husband's name | Daily attendance/No. of units worked | | | | | | | | | | | | | | | | | | | | | | | | | | | | Total attendance/ Total No. of Units worked | Remarks |
|------------|-------------------------|-------------|-----------------------------|--------------------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--|--|--|--|--|--|--|--|--|---------|
| | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | | | | | | | | | | |
| | | | | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | | | | | | | | | | | | | | | | | | | |
| 1 | 2 | 3 | 4 | 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | 6 | 7 |

FORM V
Register of Wages
(See Rule 6)

Name of Establishment
Location
Post Office

Name and address of employer.....
Wage period from.....to.....

| Serial No. | Name of employed person | Designation | Father's/Husband's name | Total attendance No. of units worked | Rate of wages | | | Wages earned | | | | Total |
|------------|-------------------------|-------------|-------------------------|---|---------------|------|------------------|--------------|------|----------|------------------|-------|
| | | | | | Basic | D.A. | Other allowances | Basic | D.A. | Overtime | Other allowances | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |

| Deduction from wages on account of | | | | | | | Total deductions | Net amount payable | Acquittance with date | Remarks |
|------------------------------------|-------------|----|--|-------------------------------|---|------------------|------------------|--------------------|-----------------------|---------|
| Fines | Damage loss | or | Loss caused to the employer by neglect or default of employed person | Amenities/services/House Rent | Provident Fund/Income Tax/Postal Insurance/Co-operative Societies | Other deductions | | | | |
| 14 | 15 | | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 |

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PART II

FORM VI
Muster Roll-~~an~~ Register of Wages.
(See rule 6)

Name and address of employer.....

Wage period from.....to.....

| Serial No. | Name of employed persons | Designation | Father's/Husband's name | Daily attendance/No. of units worked | | | | | | | Total attendance/Units worked | Rate of wages | | |
|------------|--------------------------|-------------|-------------------------|--------------------------------------|---|---|---|---|---|---|-------------------------------|---------------|------|------------------|
| | | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | | Basic | D.A. | Other allowances |
| 1 | 2 | 3 | 4 | 5 | | | | | | | 6 | 7 | 8 | 9 |

| Wages earned | | | | Deduction from Wages on account of | | | | | | |
|--------------|------|----------|-----------------------|------------------------------------|-------|-------------------|---|--|--|--|
| Basic | D.A. | Overtime | Other allow- ances | Total | Fines | Damage or loss | Loss caused to employer by neglect or default of employed person | Amenities & Services/ House Rent | Provident Fund/ Income tax/ Postal In- surance/Co- operative society | Deductions from Wages on account of Other de- duction |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |

| Total deductions | Net amount payable | Acquittance with date | Remarks |
|------------------|--------------------|-----------------------|---------|
| 21 | 22 | 23 | 24 |

FORM VII

(See Rule 11 (I) (ii))

Notice of Rates of Wages and Scales of allowances payable to employed persons

Name of Establishment

Date from which wage rates will be or are enforced.....

| Serial No. | Class of employees or des- cription of work | Particulars of wage period | Rate of Wages | | Rate of allowances, if any | Remarks |
|---------------|--|----------------------------|---------------|----|-------------------------------|---------|
| | | | Rs. | P. | | |
| 1 | 2 | 3 | 4 | 5 | 6 | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

FORM VIII

(See rule 16)

Annual Return

Return for the year ending 31st December, 196

1. (a) Name of the Establishment, location and postal address.....
- ** (b) Name and address of the Manager/Contractor.....
- ** (c) Name of the Company/Firm owning the establishment and full address of its registered office
- ** (d) Name and residential address of the Managing Agent/Director/Partner in charge of the day to day affairs of the establishment.....
- ** (e) Name and address of the person, if any, other than the Manager/Contractor, who is responsible for payment of wages in terms of the proviso to Section 3 of the payment of Wages Act, 1936
2. Number of days worked during the year
- *3. (a) Number of man-days worked during the year :—

Adults

Persons receiving less than Rs. 400/- per month

Children

†(b) Average daily No. of persons employed during the year Persons receiving less than Rs. 400/- per month

Adults

Children

- (c) Gross amount paid as remuneration to persons, getting less than Rs. 400/- per month including deductions under section 7(2) is..... of which the amount due to profit sharing bonus is and that due to †† money value of concessions is

4. Total wages paid including deductions under section 7(2) on the following accounts:—

Persons receiving less than Rs. 400 /- per month

- (a) Basic wages including overtime wages and non-profit sharing bonus.
- (b) Dearness and other allowances in cash.
- (c) Arrears of pay in respect of previous year paid during the year.

5. Number of cases and amount realised as :—

| | Persons receiving less than Rs. 400/- per month | No. of cases | Amount |
|---|---|--------------|--------|
| (a) Fines | | | |
| (b) Deductions for damage or loss | | | |
| (c) Deductions for breach of contract | | | |

6. Disbursement from the fine fund :—

| | Purpose | Amount |
|-----|---------|--------|
| (a) | | |
| (b) | | |
| (c) | | |
| (d) | | |

7. Balance of fines fund in hand at the end of the year,

Signature
Designation

*This is the aggregate number of attendances during the year.

†The average daily number of persons employed during the year is obtained by dividing the aggregate number of attendances during the year by the number of working days

‡Money value of concessions should be obtained by taking the difference of the cost price paid by the employer and the actual price paid by the employees for supplies of essential commodities given free or at concessional rates.

**Strike off whichever is not applicable.

FORM IX

[See Rule 17 (3)]

Register of Advances made to employed persons.

Name of Establishment

| Serial No. | Name of employed person | Father's or Husband's name | Nature of employment | Earnings during a 'wage' period | Date & Amount of advance. | Purpose(s) for which advance made | Instalments for repayment of advances | | Date of instalments repaid. | Date on which total amount paid. | Signature or thumb impression of the worker or remarks |
|---------------|-------------------------------|----------------------------------|-------------------------|--|---------------------------------|--|--|------------------------------|-----------------------------------|---|--|
| | | | | | | | No. of instalments. | Amount of each instalment | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

FORM X

[See Rule 18(3)]

Register of loans granted to the employed persons for house building or other approved purposes.

Name of Establishment.....

| Serial No. | Name of employed person | Father's/ Husband's name. | Nature of employment | Amount of loan. | Date when granted. | Purpose for which granted. | Instalments for repay- ment of loan | | Date of instalments re-paid. | Date on which total amount re- paid | Signature or thumb impression of the worker or remarks. |
|---------------|-------------------------------|---------------------------------|-------------------------|--------------------|-----------------------|----------------------------------|--|---------------------------------|------------------------------------|--|--|
| | | | | | | | No. of instalments. | Amount of each instalment | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |

FORM XI

(See Rule 20)

Abstract of the Payment of Wages Act, 1936 and the Rules made thereunder.

1. The Act applies to the payment of wages to persons employed in air transport services receiving less than Rs. 400/- a month.

2. No employed person can give up by contract or agreement his rights under the Act.

Definition of wages

3. 'Wages' means all remuneration whether salary, allowances or otherwise payable to a person employed in respect of his employment or of work done in such employment;

It includes—

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment;
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made.
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

It excludes—

- (1) any bonus which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
- (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by an order of the Central Government;
- (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d) (Section 2(vi) of the Act).

Responsibility for and method of payment

4. The employer is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payment in kind is prohibited.

Fines and Deductions

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—18 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Regional Labour Commissioner, specify by a notice

displayed at or near the entrance of the work place or places at the establishment and after giving the employed person an opportunity for explanation.

(2) Fines.

- (a) shall not exceed three paise in the rupee.
- (b) shall not be recovered by instalments or later than sixty days of the date of imposition.
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as are approved by the Inspector.
- (d) shall not be imposed on an employed person who is under the age of fifteen years.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but:—

- (i) no deduction for breaking contract can be made from a person under 15 or a woman.
- (ii) there must be a provision in writing which forms part of the contract of employment or the certified Standing Orders, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given the employer and that wages may be deducted in lieu of such notice;
- (iii) the above provision must be displayed at or near the entrance of the work place or places at the establishment or work place;
- (iv) no deduction of this nature can be made until a week's notice that this deduction is to be made has been posted at or near the main entrance of the work place or places at the establishment or work-place;
- (v) no deduction must exceed the wages of the employed persons for the period by which the notice he gives of leaving employment, is less than the notice he should have given under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed persons an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the Central Government amenities and services (other than tools and raw material) supplied by the employer; provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advance or for adjustment of over-payment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period.

(c) Advances of whatever nature can be made at the employer's discretion during the employment.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payment to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government.

16. Deductions can be made for repayment of loans granted to the employed persons from funds constituted for welfare of labour.

17. Deductions can also be made for repayment of loans granted for house building and other purposes.

18. Deductions can also be made with the written authorisation of the person employed or payment of any premium on his life insurance policy to the Life Insurance Corporation of India or for the purchase of securities of the Government of India or of any State Government or for being deposited in any post office Savings Bank in furtherance of any savings scheme of any such Government.

19. Any loss of wages resulting from withholding of increment or promotion, reduction to a lower post or time scale or to a lower stage in a time scale or suspension does not constitute deduction from wages within the meaning of the Act. For this purpose the rules framed by an employer in relation to his employees in the establishment for the purpose of any of the aforesaid penalties shall provide that:—

- (i) any such penalty as aforesaid, except the penalty of suspension, shall not be imposed unless the person concerned:—
- (ii) (a) has been informed for the charges in respect of which it is proposed to impose the penalty;
- (b) has been given a reasonable opportunity of showing cause why the proposed penalty should not be imposed.
- (iii) the person concerned is given a right of appeal against any order imposing the penalty.

Inspections

20. An Inspector can enter on any premises and can exercise the powers of Inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of deductions or delays

21. (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 12 months to the Authority appointed by the Central Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for delay is shown.

(b) Any legal practitioner, official of a registered trade union, Inspector under the Act or other person acting with the Authority can make the complaint on behalf of an employed person.

(c) A single application may be presented by, or on behalf of any number of persons belonging to the same establishment the payment of whose wages has been delayed.

Action by the Authority

22. The authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50/- on the applicant and order that it be paid to the employer.

In a case in which compensation is directed to be paid under Section 15(3) the authority may direct that a penalty not exceeding fifty rupees be paid to the State Government by the employer or any other person responsible for the payment of wages.

Appeal against the authority

23. An appeal against an order dismissing either wholly or in part an application or against a direction may be preferred within 30 days in Calcutta to the Chief Judge, Court of Small Causes and elsewhere to the District Court:—

- (a) by the employer if the total amount directed to be paid exceeds Rs. 300/-.
- (b) by an employed person or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under the Act or any other person permitted by the authority to make an application, if the total amount of wages withheld from him exceeds Rs. 20/- from unpaid group to which he belongs or belonged exceeds fifty rupees.
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act

24. Any one tried for delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500/- but only if prosecuted with the sanction of the Authority or the Appellate Court.

25. The employer who—

- (1) does not fix a wage period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the work place or places at the establishment or work place this abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act, is liable to fine not exceeding Rs. 200/-.

A complaint to this effect can be made only by the Inspector or with his sanction.

[No. 638/3/66-Fac.I.]

By Order,

J. D. TEWARI Under Secy.

(Department of Labour and Employment)

New Delhi, the 14th August 1968

S. O. 3037.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Kustore and Alkusa (South) Collieries of Messrs Ranigunge Coal Association Limited (Post Office Kusunda, District Dhanbad) and their Contractors, Messrs Manilal Pattanaik and Company, of the one part, and their Workmen of the other part which was received by the Central Government on the 8th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT

Shri Nandagiri Venkata Rao, Presiding Officer

REFERENCE NO. 53 OF 1967

In the matter of an industrial dispute under Section 10 (1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Kustore and Alkusa (South) Collieries of Messrs Ranigunge Coal Association Limited (Post Office Kusunda, District Dhanbad) and their contractors, Messrs Manilal Pattanaik and Company, of the one part

AND

Their workmen on the other part.

APPEARANCES

- For the employers :* (1) Employers No. 1
Shri S. S. Mukherjee,
Executive Committee Member,
Ranigunge Chamber of Commerce.
- (2) Employers No. 2 in person and through
Shri S. S. Kapoor, Advocate.
- For the workmen* Shri Lalit Burman,
General Secretary,
Bihar Koyla Mazdoor Sabha.

State Bihar

INDUSTRY: Coal

Dhanbad, 5th August, 1968/14 Sravana 1890 Saka

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Kustore and Alkusa (South) collieries of Messrs Ranigunge Coal Association Limited (Post Office Kusunda, District Dhanbad) and their contractors, Messrs Manilal Pattanaik and Company of the one part, and their workmen of the other part, by its order No. 2/21/65-LR. II dated 7-6-1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“1. Whether the action of the management of the Kustore Colliery of Messrs Ranigunge Coal Association Limited and their contractors, Messrs Manilal Pattanaik and Company, in retrenching the workmen referred to in Annexure ‘A’ employed in the D. B. Incline, was justified? If not, to what relief are the workmen entitled?

2. Whether the action of the management of the Alkusa (South) colliery of Messrs Ranigunge Coal Association Limited and their contractors, Messrs Manilal Pattanaik and Company in retrenching the workmen referred to in Annexure ‘B’ employed in 4A Pit was justified? If not, to what relief are the workmen entitled.

31 workmen in Annexure ‘A’ and

133 workmen in Annexure ‘B’ ”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 102 of 1965 on its file. Employers as well as the workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967 under Section 33B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 53 of 1967.

3. Kustore colliery and Alkusa (South) colliery are owned by Messrs Ranigunge Coal Association Limited (hereinafter referred to as the owners) and Messrs Manilal Pattanaik and Company were the contractors (hereinafter referred to as the contractors) working in D.B. Incline of Kustore and 4A Pit of Alkusa (South) collieries under a contract from the owners. The 33 workmen referred to in Annexure ‘A’ to the schedule of reference were employed in D.B. Incline of Kustore colliery and the 133 workmen mentioned in Annexure ‘B’ of the schedule were employed in 4A Pit of Alkusa (South) Colliery. The contractors under the signature of Shri M. L. Pattanaik issued notices on 12-12-1964 terminating the services of the workmen mentioned in Annexure ‘A’ with effect from 17-12-1964 and of the workmen mentioned in Annexure ‘B’ under notices dated 14-12-1964 with effect from 18-12-1964. These facts are not in dispute. The case of the workmen is that the contractors and Shri M. L. Pattanaik were being used by the owners to perpetuate numerous malpractices in the colliery, that the contractors had no locus standi to issue the notices terminating the services of the workmen, that the owners were the employers of the workmen, that the action of the owners and contractors in terminating the services of the workmen were malafide, illegal and unjustified, that they had done so with a view to get rid of the workmen with the object of victimising the workmen who were being organised under Bihar Koyla Mazdoor Sabha Union, that in the action of the owners and contractors there has been gross discrimination against the members of the Bihar Koyla Mazdoor Sabha, as the G.P. labour who are not members of the union, is absorbed elsewhere under the same owners and that the workmen are entitled to the relief of reinstatement with full back wages and other amenities for the entire period of their idleness. The owners and the contractors have filed separate statements. In their statement the owners have pleaded that during the relevant period the D.B. Incline of Kustore colliery and No. 4A Pit of Alkusa (South) colliery were being worked by the contractors, that the contractors had employed their own workmen for the purposes of their contract, that the owners were not in any manner responsible for the employment or non-employment or for any other conditions of services of the workmen employed by the contractor that there was no relationship of employers and employees at any time between themselves and the workmen, that there could be no industrial dispute between them and the workmen, that the G.P. labour for the time being was employed in a section of the mine directly under the owners and not under the contractors and that the workmen had not been discharged jointly by the owners and contractors. The stand taken by the contractors in their statement is that they were the raising contractors for D.B. Incline of Kustore colliery and 4A Pit of Alkusa (South) colliery under the owners and that the contractors employed their own men for execution of the contract work. The contractors further pleaded that in D.B. Incline of Kustore Colliery coal had exhausted and it was no longer possible to continue the raising contract in the Incline owing to the above reason and financial

consideration, that the owners sought permission of the Coal Board for depillaring 11 seam (No. 4A Pit) of Alkusa (South) Colliery by caving method so that the contract work in that Pit could continue further, but the Secretary, Coal Board had refused permission of depillaring in the Pit by caving method, that owing to the above reasons the contractors had to close both the working places for reasons beyond their control and as such they issued the notices and terminated the services of the workmen offering them compensation in terms of Section 25 FFF of the Industrial Disputes Act, 1947, that the Labour Inspector (Central) filed Payment of Wages Act Case No. 69 of 1955 before the Labour Court, Ranchi against the contractors for realisation of arrears of wages for the same workmen mentioned in the annexures to the schedule of the reference, that the arrear of wages has since been paid or offered to the workmen by the contractors and that the termination of services of all the workmen mentioned in Annexure A and B to the schedule of the reference was legal and justified. The workmen were represented by Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha, the owners (Messrs Ranigunge Coal Association Limited) by Shri S. S. Mukherjee, Executive Committee Member, Ranigunge Chamber of Commerce and the contractors (Messrs Manilal Pattanaik and Company) by Shri S. S. Kapur, Advocate. On behalf of the workmen 4 witnesses were examined and Exts. W1 to W5 and W22 and Exts. M3, M4 and M5 were marked. By consent of the employers Exts. W6 to W21 were marked. On behalf of the owners 2 witnesses were examined and Exts. M6 to M44 were marked. On behalf of the contractors one witness was examined and Exts. M45 to M74 were marked.

4. The owners had taken the plea that there was no relationship of employers and employees at any time between them and the workmen referred to in Annexures A and B of the schedule to the reference and as such, there could not be any industrial dispute between them and the workmen. Exts. M1 and M73 are the notices dated 12-12-1964 terminating the services of the workmen relating to D.B. Incline of Kustore colliery and Exts. M2 and M74 are similar notices dated 14-12-1964 terminating the services of the workmen employed in 4A Pit, Alkusa (South) colliery. All the 4 notices were signed by Shri M. L. Pattanaik for the contractors. There is no reference in any of them to the owners. It follows that the services of all the workmen relating to D.B. Incline of Kustore colliery and 4A Pit of Alkusa (South) Colliery were terminated by the contractors and not by the owners. Exts. M51 to M60 are the wage sheets of 4A Pit and Exts. M61 to M68 of D.B. Incline. Exts. M3, M4 and M5 are monthly pay sheets relating to the above Incline and Pit Exts. M45 and M50 are payment vouchers or bills for D.B. Incline and Exts. M19 to M31 of 4A Pit. In all these exhibits names of the affected workmen mentioned in the schedule to the reference can be found and it is also seen from them that weekly wages as well as monthly wages were paid to the workmen on behalf of the contractors. Exts. M32 to M41 are hazri and training sheets (payment sheets) maintained by the owners in respect of the workmen employed by them. Nowhere in these sheets names of the workmen of annexure A or annexure B of the reference can be found. The Labour Inspector (Central) Jharia West had filed P.W. Case No. 69 of 1965 before the Labour Court, Ranchi. Ext. M71 is the copy of the order of the Labour Court, Ranchi dated 23-1-1967. This order sheet, Ext. M71 as well as the application by the Labour Inspector (C), Ext. M70 clearly show that the case was filed against the contractors and there was no reference in them to the owners. Exts. M72(1) to M72(88) are vouchers showing payment to 88 workmen of D.B. Incline and 4A Pit. They also show that the payments were made to the workmen by the contractors. WW1 has conceded in his cross-examination that the contractors were raising contractors for D.B. Incline and 4A Pit. The witness also has admitted his signature on the revenue stamp on the payment sheet, Ext. M3, which is maintained by the contractors as I have already pointed out. WW2 also has admitted his signature on the payment sheet, Ext. M5 maintained by the contractors. He has conceded in categorical terms that for some period he received his wages from the contractors and that he had also received a money order from the contractors, the money representing his arrears of wages. It is in the evidence of WW3 that the contractors had their office in the colliery premises and that the wages of the workmen were being distributed from the office of the contractors. On behalf of the workmen Shri Lalit Burman has relied upon Ext. W1 and Exts. W3 to W21 contending that they are appointment letters issued to the workmen by the owners. The Manager of Alkusa (South) Colliery MW1, has pointed out that Ext. W1 and Exts. W3 to W21 are not letters of appointment but they are letters of authorisation to work as competent persons and that they were issued in accordance with Regulation No. 36 of the Coal Mines Regulations 1957. Under the Regulations whenever a Manager is appointed to take charge of a mine he is bound to satisfy himself about competency of the persons and to counter-sign their authorisations or issue fresh authorisations. I find that the explanation offered by the witness is acceptable. Otherwise it cannot be explained why in some cases more than one appointment letters could be issued in respect of one and the same person. Ext. W1 is issued on 1-5-1957 and it is in favour of Shri Issue Chowdhury, Attendance clerk and Ext. W3 is issued on 5-9-1962 in favour of the same person. Similarly Exts. W4 and W5 are in favour of Shri Nita Bauri, Exts. W7 and W8 and W15 are in labour of Shri Huro Chamar, Exts. W10 and W11 are in favour of Shri Sitaram Dosad and Exts. W12 and W13 are in favour of Shri Boudhu Mahato, Shri Lalit Burman the learned representative of the workmen could offer no explanation in this respect. Therefore, it is manifest that Exts. W1 and W3 to W21 are not appointment letters but authorisation letters issued by the Manager of the owners in discharge of the duty cast on him under Regulation 36 of the Coal Mines Regulations, 1957. It is also argued for the workmen that the Manager used to control the work and took disciplinary action, etc. against the workmen and it should be taken as a proof that the workmen were appointed by him. Obviously, this is done

by the Manager under Regulation 41 of the Coal Mines Regulations, 1957, in discharge of his duties. A reading of the Regulation shows that he had to exercise the control over the workmen irrespective of the fact whether the workmen were appointed by him or not. The mere fact of the Manager of the owners controlling the workmen does not drive us to one and the only one inference that the workmen were appointed by him or the owners. Workmen had pleaded not specifically but haltingly in para 3 of their statement, "Ranigunge Coal Association Limited, the employers in relation to the workmen concerned". They did not assert anywhere that the owners (Ranigunge Coal Association Limited) were their employers. There is not even an iota of evidence brought on record to show that all or any of the workmen mentioned in Annexures A or B of the schedule of the reference were appointed by the owners and not by the contractors. On the material discussed by me above I have no hesitation to hold that the contractors were the employers of the workmen mentioned in annexures A and B of the schedule of the reference and not the owners and that, as such, the contractors alone are responsible to the workmen.

5. The question as to who are the employers as regards the workmen mentioned in annexures A and B of the reference is not so important as the one of justification of termination of services of the workmen. The contractors in their statement had clearly mentioned that D.B. Incline of Kustore colliery and 4A Pit of Alkusa (South) colliery had to be closed down, necessitating termination of services of the workmen concerned with them. The workmen did not file any rejoinder to the statement of the contractors nor have they pleaded anywhere that the two undertakings were not closed down. Along with their statement the workmen have enclosed as annexures A and B copies of the notices dated 12-12-1964 and 14-12-1964 and they are no other than Exts. M1 and M2 which are marked by their consent. In Ext. M1 it was clearly stated that D.B. Incline of Kustore colliery would be closed down on and from 17-12-1964 and 4A Pit Alkusa (South) colliery on and from 18-12-1964. Ext. M7 and M8 are letters from the contractors to the General Manager of the owners intimating him that they were closing down 4A Pit of Alkusa (South) colliery with effect from 18-12-1964 and D.B. Incline of Kustore colliery from 17-12-1964 and giving up the contract works with effect from the above dates. MW2 has deposed that D.H. Incline has stopped working from December, 1964 and it still continues to remain closed. The evidence of MW3 is also to the same effect. No attempt is made on behalf of the workmen to elicit in the cross-examination of the 2 witnesses that the undertakings were not closed down. WW1 has also conceded that the contract of the contractors with the owners in respect of Kustore colliery and Alkusa (South) colliery was terminated in December, 1964. On this evidence it is established beyond doubt that the two undertakings, D.B. Incline of Kustore colliery and 4A Pit of Alkusa (South) colliery were closed down with effect from 17-12-1964 and 18-12-1964 respectively and consequently the services of the workmen concerned with the undertakings were terminated. When an undertaking is closed down Section 25FFF of the Industrial Disputes Act, 1947 comes into play. The words, "where an undertaking is closed down for any reason whatsoever" in the section are of importance and they leave no room to question the justification or otherwise of closing down of the undertaking. In such a case the workmen, whose services are terminated consequent upon closing down of the undertaking are left with no remedy other than the one to claim compensation in terms of the section, unless the closing down of the undertaking is malafide. The workmen had attributed a motive to the management for closing down the undertaking by stating in para 4 of their statement that it was in order to get rid of the workmen, who being organised in the union (Bihar Koyla Mazdoor Sabha) started necessary action for winning their legitimate dues, demands and benefits. Thus, the onus was laying on the workmen to substantiate the allegation made by them. There is absolutely no evidence brought on record on their behalf in this respect. It is not known why the management should be against the workmen joining Bihar Koyla Mazdoor Sabha Union and in what manner they started their action for winning legitimate dues, demands and benefits. Merely making a bold allegation does not call for evidence on behalf of the owners or contractors to justify their closing down of the undertakings. The owners and the contractors in particular had pleaded that their closing down of the undertaking was on account of unavoidable circumstances beyond their control. It is in the evidence of MWs 1, 2 and 3 that D.B. Incline of Kustore colliery was closed down because the coal in it had exhausted and that 4A Pit of Alkusa (South) colliery was closed down because when the owners sought permission of the Coal Board for depillaring by caving method, the Secretary of the Board had refused the permission. Ext. M6 is the letter from the Secretary of the Coal Board addressed to the owners, stating that the proposal for extraction of coal by caving could not be approved. He advised extraction by hydraulic and stowing methods. The contractors could not be compelled to continue the work by the method suggested incurring more expenditure. There is no evidence on behalf of the workmen to rebut the above testimony. On this material I find that closing down of the two undertakings was on account of unavoidable circumstances beyond the control of the contractors. The question of compensation to the individual workmen connected with the two undertakings depends upon further enquiry to be made in terms of Section 25FFF of the Industrial Disputes Act, 1947.

6. I, therefore, hold that the action of the contractors, Messrs Manilal Pattanaik and Company in terminating the services of workmen employed in D.B. Incline of Kustore colliery and 4A Pit of Alkusa (South) colliery and referred to in Annexures A and B to be schedule of the reference was justified and, consequently, they are not entitled to any relief other than the compensation

under Section 25FFF of the Industrial Disputes Act, 1947. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947

Sd/- N. VENKATARAIO.
Presiding Officer,
Central Govt. Industrial Tribunal No. 2
Dhanbad.

[No. 2/21/65-LRII.]

New Delhi, the 10th August 1968

S.O. 3318. —In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Ghugus Colliery, Post Office Maneckpur, District Chanda (Maharashtra) and their workmen, which was received by the Central Government on the 6th August, 1968.

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR.

Dated July 29, 1968

PRESENT :

SHRI G.C. AGARWALA—PRESIDING OFFICER

CASE REF NO. CGIT/LC (R) (8) OF 1968

PARTIES :

Employers in relation to the management of Ghugus Colliery,
P. O. Maneckpur, District Chanda (M.S.)

Versus

Their workman represented through the Maharashtra Colliery workers' Union,
Ballarpur (M.S.)

Appearances :

| | | |
|---------------|-------|---|
| For employers | | Sri S.V. Kanade, Personnel Officer. |
| For Workmen | | Dr. D.P. Kawadkar, President, Maharashtra Colliery Workers' Union, Ballarpur (M.S.) |

INDUSTRY: Coal Mine

DISTT.—Chanda (M.S.)

AWARD

By Notification No. 5/68/67-LR-II dated 9th January, 1968, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the order of reference, to this Tribunal for adjudication:—

Matter of Dispute

Whether the management of Ghugus Colliery of M/s. Ballarpur Collieries Ltd. Nagpur, is justified in refusing promotion as store keeper to Shri R. M. Gadre, Assistant Store Keeper, in the vacancy of Shri P.B. Vaidya, Store Keeper, from July, 1967. If not, to what relief is Shri R. M. Gadre entitled ?

2. The employers M/s. Ballarpur Collieries Company, have collieries at Ballarpur, Sasti and Ghugus, district Chanda in Maharashtra. The workman concerned, Shri R. M. Gadre, to be hereinafter called Gadre, has been in the service of the management from July, 1952. He had been in the Stores Department of Ghugus Colliery from May, 1956, first as a Stores Clerk and then as Asstt. Store Keeper from 2nd July, 1960. A branch of the Union, Maharashtra Colliery Workers' Union, started functioning from July 1961 and Gadre was an office bearer of the Union at Ghugus Colliery. He was the first Branch Secretary and has been a Joint Secretary of the Union from April, 1964. The management transferred him in April, 1962 to Sasti Colliery as Time Keeper. The Union raised a dispute challenging the transfer as mala fide with a view to deprive him from Union activities and a dispute was referred to Central Government Industrial Tribunal, Bombay. The Tribunal held that the transfer was unjustified. The award

which was recorded on 30th August, 1962 in CGIT/16 of 1962 (Ex W/1) ordered that the management shall retransfer Gadre to Ghugus Colliery as Asstt. Store Keeper. The management challenged the award in a writ petition before the Bombay High Court. During the pendency of the writ case a settlement was arrived at on 25-2-64 through the intervention of the Conciliation Officer (Ex. W/2). It was agreed between the parties that Gadre would be retransferred to Ghugus Colliery as Asstt. Store Keeper without affecting his service conditions and he would cooperate with management in maintaining better industrial relations. The management retransferred him as Asstt. Store Keeper. It appears, however, that he was not trusted with responsible jobs and a junior to him, one Pophale a Stores Clerk was given more responsible work and was allowed to officiate in the absence of Store Keeper, Vaidya. The Union protested to the management by Communication dated 13-7-1964 (Ex. W/3) and another communication dated 21-12-1964 (Ex. W/4). On behalf of the management the allegation was refuted that any injustice was being caused to Gadre by letter dated 5th January, 1965 (Ex. W/5). The matter lingered on and it appears that Pophale was preferred to Gadre in the working of the Stores Department. Things went on till according to the management some serious shortages in the stores were discovered in March, 1967. The explanation of the Store Keeper, R.P. Vaidya, was obtained. There was again a shortage in July, 1967 and after an explanation of Vaidya was taken he was transferred and Pophale was made the Store Keeper. This brought the controversy again to the forefront. Gadre protested on this arrangement by letter dated 7th August, 1967 (Ex. W/6). The Union also took up his cause by letter dated 19-8-1967 (Ex. W/7). The management, however, informed Gadre by letter dated 23rd August, 1967 (Ex. W/8) that he had not been found suitable for the post of Store Keeper. Gadre again represented by letter dated 28-8-1967 (Ex. W/10) but when nothing came out the Union took up the case which in the due course has resulted in this reference. It is alleged by the Union on behalf of Gadre that in denying him promotion and putting a junior clerk, Pophale, over him, the management has been actuated to victimise him. The employers, however, contended that the record of Gadre had not been clean. He had claimed for overtime allowance for three years and which was a bogus claim and was held to be so by the Mines department. The management felt that Gadre had a hand in the shortages of stores. Whenever local purchases were obtained through him the cost was more. He was also found to be negligent. On the other hand, Pophale who is first class Matriculate with Science and Math. as subject was found more competent and trustworthy. He had consequently been made incharge of stores and no permanent arrangement had been made. On these pleadings of parties only one issue was framed as to whether the action of the management was *malafide* in denying promotion to Gadre.

3. Promotion is essentially a management function. As held by the Hon'ble Supreme Court in two cases of Brooke Bond (India) (Private) Ltd. Vs. Workmen 1963 (I) LLJ p. 256 and 1966 (I) LLJ p. 402, the Tribunal will only interfere in the management discretion if the management's action had been *malafide* with a view to victimise the superseded person. It appears from the evidence in the case that the record of Gadre had been far from satisfactory. From the evidence of Sri S. S. Saran Manager, E.W.1 it appears that there were serious shortages of stores materials and although there was no positive proof yet there was a strong suspicion both against Vaidya and Gadre. Further whenever local purchases were made, costs were found to be more. He was found to be negligent and passed bills of higher amounts without checking. There was a special checking done in the month of March when Sri Saran was Asstt. Manager. Gadre was incharge of the issue section of Stores and serious shortages were discovered. Sri Saran further stated that cost of local purchases made through Gadre in 1962 was found to be higher. Since then purchases were not made through him. In the time of Sri Saran, however, some local purchases were made between March to July, 1967 through Gadre who was sent to Chanda. Gadre, however, took more time than was necessary. There was a complaint in the month of March, 1967, a few days before Sri Saran took over as Manager, that he passed a bill for higher amount. For irregularities in the issue of stores a letter was issued to him in April, 1967 but Gadre did not reply. A number of documents have been filed to show the unsatisfactory working of the stores. Most of them, Exts. E/1 to E/12 however, relate to irregularities and discrepancies during the year 1961-62 and may be ignored. Even so, there is evidence that Gadre continued to be negligent. An instance of carelessness in quoting the rate which is in the writing of Gadre is furnished by an entry in Ex. E/13A and which was admitted by Gadre to be a slip. A more recent instance of carelessness is found in the billing by Gadre. Ex. E/14 is a bill which was prepared by Gadre wherein there was a mistake of Rs. 100/- in the billed amount. The billed Company pointed this out by letter Dated 13th March, 1967 (Ex. E/15). Gadre admitted these facts. The management, therefore, had ample justification in not promoting Gadre to the post of Store Keeper which undoubtedly is a post of trust and responsibility involving as it does the purchases and issue of stores ranging between four to six lacs every year. When his past record had not been found to be satisfactory, Gadre cannot complain that he must necessarily be promoted to the post of Store Keeper.

4. At the same time, the action of the management in promoting Pophale, Stores Clerk over Gadre was rather a misconceived action. If both Vaidya and Gadre were suspected to have had hand in shortages of stores the management could as well have transferred Gadre also as they had done in the case of Vaidya. In so doing no motive of victimisation.

could have been attributed. It is unfair to place a junior man over the head of Gadre as Store Keeper. Pophale may have been a first divisioner Matriculate and better at drafting but after all he was a Store Clerk and in fair play and social justice Gadre should not have been made to work under Pophale. The management will transfer Gadre to another assignment in the equal grade if and when requested by Gadre.

Decision

The management was justified in refusing promotion as Store Keeper to Sri R. M. Gadre in the vacancy of Sri P. D. Vaidya. The management will, however, transfer Gadre if and when requested and in case it is decided to keep on Sri J. G. Pophale as Stores Keeper. No order for costs.

Sd./- G. C. AGARWALA,
Presiding Officer,
29-7-1968
[No. 5/68/67-LRII]

S.O. 3039.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the matter of an application under section 33A of the said Act from Singareni Collieries Mazdoor Sangh, Post Office Kothagudem Collieries, which was received by the Central Government on the 8th August, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL, (CENTRAL) AT HYDERABAD

PRESENT:

Sri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION NO. 87 OF 1968
IN
INDUSTRIAL DISPUTE NO. 30 OF 1967.

BETWEEN

Singareni Collieries Mazdoor Sangh, P.O. Kothagudem Collieries

AND

Management Singareni Collieries Co. Ltd., P.O. Kothagudem Collieries.

APPEARANCES:

Neither party is present.

AWARD

This application is under section 33A of the Industrial Disputes Act. There are five applicants in it. They are tub repairers in the employ of the respondent collieries. They are (1) Barnabes, (2) B. Charley, (3) Isaac, (4) J. Ramulu and (5) Subhan Khan. Industrial Dispute No. 30/67 is pending here, the parties to it being the Management of the Singareni Collieries Co. Ltd. on the one side and its employees on the other. Subsequent to the reference in that dispute the Management had transferred these tub repairers to the Labour Training Pool. The issue in the dispute is with regard to categorisation and payment. The applicants are thus concerned with that dispute. The Management did not find it necessary to make application under the proviso to sub-section 2(b) of section 33 of the I.D. Act because it was a matter of mere transfer. It is stated in the application that the transfer was motivated in that it was resorted to with a view to deprive these workers of any benefits that the award in the dispute may bestow upon them. It is thus pointed out that the transfer in question was violative of the provisions of section 33 of the I.D. Act.

2. The Management filed counter pointing out that it did nothing violative of the provisions of section 33 and that the transfer of the applicants to the Labour Training Pool was effected in normal course. It is further pointed out that this application is filed not by the workers concerned but by the General Secretary of the Mazdoor Sangh, whereas section 33A enjoins that an application under that section should be filed by the aggrieved worker or workers.

3. The application stands posted for enquiry this day. Neither party is present despite notices to them that the enquiry would be taken up today. I would dispose of the case.

4. I do not think that there is any merit in the objection taken in the counter that the application was not maintainable under section 33A because it was filed by the General Secretary of the Mazdoor Sangh. It is no doubt true that it does seem that the application was filed by the General Secretary of the Mazdoor Sangh because under the heading "signature of the complainant", Mr. S. K. Srinivasan has signed it. He is General Secretary of the Mazdoor Sangh. But the workers also had signed it. That being so, the application can be treated as having been filed by the complainant workers. The objection in question is negatived.

5. Except to allege in paragraph 3 of the application that the "Management in order to avoid such fixation, under the guise of a transfer order, had transferred the said workmen to the Labour Training Pool", nothing is stated therein how the conditions of service of any of these five applicants are in any manner affected or changed. For instance, it is not stated that there would be any difference in the emoluments before and after their transfer to the Labour Training Pool. It may be that the tub repairers claim that they should be fixed in Category VI, that being a category as recommended by the Wage Board on the Coal Industry which recently gave its report. That is a matter to be decided in the dispute in I.D. No. 30/67. The award that would be made by this Tribunal in that dispute would be effective and would be binding on all parties to the dispute including the present applicants by which ever trade union they may be represented. It is not shown how the transfer in question would affect the applicants in the matter of a fixation in the categories, that being a matter in the dispute in I.D. No. 30/67. It is not shown or suggested in the application how the conditions of service of the applicants are affected or altered.

6. There is no relief to be given to any of the applicants in this application under section 33A. This application is therefore rejected.

AWARD passed accordingly.

Given under my hand and the seal of the Tribunal, this the 27th day of July, 1968.

Sd./- M. NAJMUDDIN,
Industrial Tribunal.

[No. 7/21/67-LRII-I.]

New Delhi, the 22nd August 1968

S.O. 3040.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, (No. 2) Dhanbad, in the Industrial dispute between the employers in relation to the 6 and 7 Pits Jamadoba Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 17th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 113 OF 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to 6 and 7 Pits Jamadoba Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad

AND

Their workman

APPEARANCES:

For the employers—Shri S. S. Mukherjee, Advocate.

For the workmen—Shri Anil Sarkar, Secretary, Tata Collieries' Workers' Union.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 13th August, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to 6 and 7 Pits Jamadoba Colliery of Messrs. Tata Iron and

Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen, by its order No. 2/20/66-LR.II, dated 23rd February, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the dismissal of Shri Indar Ahir, Miner 16 Seam, by the management of 6 and 7 Pits Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited with effect from the 29th September, 1965 was justified? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 35 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LR.II dated 8th May, 1967 under Section 33 B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 113 of 1967. Employers as well as the workmen filed their statements of demands.

3. The workmen were represented by Shri Anil Sarkar, Secretary, Tata Colliery Workers Union and the employers by Shri S. S. Mukherjee, Advocate. On behalf of the workmen Shri Sarkar filed an application stating that the union is no more interested in the case and that the affected workman also did not want to proceed with the case any more. As there is no more dispute left for enquiry the reference has become infructuous and the award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd/- N. VENKATA RAO,
Presiding Officer,
Central Government Industrial Tribunal (No. 2) at Dhanbad.
[No. 2/20/66-L.R.II.]

S.O. 3041.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Digwadih Colliery of Messrs. Tata Iron and Steel Company Limited, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 17th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 92 OF 1967.

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES.

Employers in relation to the Digwadih Colliery of Messrs Tata Iron and Steel Company Ltd., Post Office Jealgora, District Dhanbad.

AND

Their workmen.

APPEARANCES:

For the employers—Shri S. S. Mukherjee, Advocate.

For the workmen—Shri S. Das Gupta, General Secretary, TISCO Accounts Branch Employees' Union.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 12th August, 1968.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Digwadih Colliery of Messrs Tata Iron and Steel Company

Limited, Post Office Jealgora, District Dhanbad and their workmen, by its order No. 2/124/65-LR.II dated 14th December, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

SCHEDULE

"Whether the management of the Digwadih Colliery of Messrs Tata Iron and Steel Company Limited is justified in not upgrading Sarvashri N. G. Acharia and A. K. Banerjee, Clerks, Accounts Section, Digwadih, from Grade II to Grade I? If not, to what relief are the workmen entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 200 of 1965 on its file. Employers as well as the workmen filed their statements of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LR.II dated 8th May, 1967, under Section 33 B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 92 of 1967.

3. The workmen were represented by Shri S. Das Gupta, General Secretary, TISCO Accounts Branch Employees Union, Digwadih and the employers by Shri S. S. Mukherjee, Advocate. In their statement of demands the employers, at the outset had taken a preliminary objection against the validity of the reference itself. Admittedly, (as spoken to by M.W. 1), Messrs Tata Iron and Steel Company Limited (hereinafter referred to as TISCO) owns several coal mines and Digwadih Colliery is one of them. Each colliery has its own management and accounts section. All the collieries are under the control of the Chief Mining Engineer. Now the contention of the employer is that the management and it is under the direct control of the Controller of the Finances' and Accounts, who is under the direct control of the Bombay head office of TISCO. The two affected workmen, Shri N. G. Acharia and Shri A. K. Banerjee belong to the Central Accounts Office but are deputed to work as Gate Checking clerks at Digwadih Colliery. The Central Accounts Office, to which the two affected workmen belong is not under the control of the Chief Mining Engineer. Now the contention of the employer is that the management of Digwadih Colliery had nothing to do with the matter of upgrading the two affected workmen from Grade II to Grade I, that there was never an industrial dispute between the employers in relation to Digwadih Colliery and their workmen on account of not upgrading the two affected workmen from grade II to grade I and that, as such any award passed on the basis of the present reference cannot be legally implemented.

4. The order of reference clearly shows that the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred to the Tribunal the following for adjudication :

"Whether the management of the Digwadih Colliery of Messrs Tata Iron and Steel Company Limited is justified in not upgrading Sarvashri N. G. Acharia and A. K. Banerjee, clerks, Accounts Section, Digwadih from grade II to grade I? If not, to what relief are the workmen entitled?"

Admittedly, the two affected workmen, Sarvashri N. G. Acharia and A. K. Banerjee were at no time employees under the management of Digwadih Colliery and they were deputed to work as gate checking clerks at the colliery by the Central Accounts Office. On this ground alone the preliminary objection raised by the employers requires to be upheld.

5. The two affected workmen were not the employees of the mine, Digwadih Colliery but they were employees of the Central Accounts Office, Jamshedpur. In view of Section 2(a)(i) of the Industrial Disputes Act, 1947 the Central Government appears to have made the reference in the present case under the impression that the two affected workmen were employees of a mine. In *Serajuddin and Company Vs. their workmen* (1962-I-L.L.J. 450) Gajendra Gadker, J. (as he then was), who delivered the judgment of the Supreme Court has discussed at length various provisions of the Industrial Disputes Act, Mines Act and the dictionary meaning of the word 'mine' and held that an industrial dispute between the employees engaged in the head office of a mine of the employer is not an industrial dispute. For these reasons the preliminary objection of the employers sustains. I hold that the reference in the case is not maintainable. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO,
Presiding Officer,

Central Government Industrial Tribunal (No. 2) at Dhanbad.
[No. 2/124/65-LR.II.]

New Delhi, the 24th August 1968

S.O. 3042.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Nichitpur Colliery of Messrs Nichitpur Coal Company (P) Limited, Post Office, Bansjora, District Dhanbad and their workmen, which was received by the Central Government on the 12th August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 61 OF 1967

PARTIES:

Employers in relation to the Nichitpur Colliery of Messrs Nichitpur Coal Company (P) Ltd., P.O. Bansjora, Distt. Dhanbad.

Vs.

Their Workmen.

PRESENT:

Shri Kamla Sahai—Presiding Officer.

APPEARANCES:

For the Employers.—Shri S. S. Mukherjee, Advocate.

For the Workmen.—Shri Prasanta Burman, Vice-President, Mine Mazdoor Union, Sijua (Dhanbad).

STATE Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 6th August, 1968

AWARD

Having formed the opinion that an industrial dispute exists, the Central Government made this reference under its order No. 2/8/65-LRII, dated the 29th March, 1965 to this Tribunal for adjudication of the dispute described in the schedule as follows:—

SCHEDULE

- (1) "Whether the management of the Nichitpur Colliery of Messrs Nichitpur Coal Company (P) Limited were justified in stopping from work Sarvashri Ram Swarup Singh, Jwala Singh, Subhas Singh and Kameshwar Singh, chaprasis-cum-night guards, with effect from the 26th September, 1964? If not, to what relief are the workmen entitled?"
- (2) Whether the management of the said colliery were justified in employing the said four workmen without mentioning their names in the relevant records and by paying them by vouchers till the week ending the 26th September, 1964? If so, to what relief are the workmen entitled?"

2. The reference was numbered as No. 47 of 1965. By the Ministry's order No. 2/25/67-LRII, dated the 25th April, 1967, the reference was transferred to the Central Government Industrial Tribunal at Jabalpur, where it was registered as reference No. 83 of 1967. By another order of the Ministry, viz., order No. 8/25/67-LRII, dated the 24th November, 1967, the reference has been re-transferred to this Tribunal. It has been registered here on this occasion as reference No. 61 of 1967.

3. The present owner of the Nichitpur Colliery is said to be Shri P. C. Mukherjee. According to Jwala Singh, WW2, he came in control of the colliery from January, 1964. The workmen in question have been represented by the Mine Mazdoor Union, Sijua.

4. The Union's case in short is that the concerned workmen were employed in the Nichitpur Colliery as chaprasis-cum-night guards for about four or five years before 26th September, 1964, that they were first illegally stopped from work in December, 1963, that the union raised a dispute and it was settled in the presence of the Conciliation Officer (C), Dhanbad, on the 24th February, 1964, that the dispute about the four workmen was again raised and that was settled in presence of the same Conciliation Officer on the 18th August, 1964 and that the management finally stopped these workmen from work on the 26th September, 1964.

5. The management's case, on the other hand, is that only Ramsarup Singh out of the four workmen in question was employed in the Nichitpur Colliery in 1958, that Ramsarup left that colliery in 1959 and was then employed in New Jeenagora Colliery and that Jwala Singh, Subhas Singh and Kameshwar Singh, the other three workmen in question, were never employed in the Nichitpur Colliery at all.

6. At the hearing of this case, the union has examined two witnesses and the management has also examined two witnesses. Both parties have also filed documents.

7. The management has examined Shri Naresh Chandra Chatterjee (MW1) who has been working as a clerk in Nichitpur Colliery from 1948. He has proved the monthly bonus register (Ext. M6) for the years 1956 to 1959, the weekly bonus register (Ext. M7) for 1958 only, form 'B' register for 1964 (Ext. M8), form 'B' register for 1961 (Ext. M9), form 'B' register for the year 1963 (Ext. M10), form 'B' register for the year 1962 (Ext. M11), the register of wages (Ext. M13) and some letters. He has stated that Ramsarup worked as a night guard in Nichitpur Colliery in 1958, but he left the colliery in 1959. He further says that there was no night guard in Nichitpur Colliery bearing the name of Subhas Singh, Jwala Singh or Kameshwar Singh. He admits in his cross examination that Ext. M13 contains entries relating only to permanent workmen.

8. Fatick Chandra Dutta (MW2) has been working as attendance clerk in Nichitpur Colliery from 1958. He says that Ramsarup has not been working as a night guard in Nichitpur Colliery from 1959 and that Subhas Singh, Jwala Singh and Kameshwar Singh have never worked as night guards in that colliery. He has proved the attendance registers for the years 1963 and 1964 [Exts. M14, M14(a) and M14(b)]. On being cross-examined, he says that these three registers are attendance registers of surface workers only and for the third shift only. He admits that they do not contain the attendance of all surface workers.

9. Being employees of the company, both the management's witnesses are interested. If, therefore, reliable evidence can be found to establish the union's case, it will not be possible to act upon their evidence. So far as the registers are concerned, they are also private documents of the management. Admittedly, the attendance registers of all surface workers have not been produced. It will, therefore, be difficult to hold on the basis of the registers which have been produced that the four concerned workmen have not been employed in the Nichitpur Colliery for the last four or five years. The certificate (Ext. M2) issued by the Assistant Commissioner, Coal Mines Provident Fund, dated 18th March, 1968, shows that provident fund contribution in respect of Ram Swarup Singh, No. 2, was received from New Jeenagora Colliery. There is nothing to establish that the man referred to in this exhibit is one of the workmen concerned in this case but, assuming that the same man was referred to in Ext. M2, there is no reason to suppose that he did not come back to Nichitpur Colliery's service towards the end of 1960 or beginning of 1961. The certificate is of the year 1968 and it is significant that it makes no reference to any year subsequent to 1960.

10. The first witness of the workmen is Shri Parmeshwar Jha (WW1), Vice-President, Mine Mazdoor Union. He has stated that Kameshwar Singh, Ramsarup Singh, Subhas Singh and Jwala Singh were chaprasis who were members of his union and that they worked in the colliery upto some months in 1964 which he does not remember. He has proved an extract (Ext. W6) as an extract from the membership register. He has not filed either the receipts issued to members for payment of their subscriptions or their counterfoils. On looking at the register, he has admitted that the 1st five receipts at page 144 were dated the 9th February, 1965 and the next six receipts were dated the 10th September, 1964. Thus, the entries in the register are topsyturvy. It is, therefore, difficult to place reliance upon the register or the extract (W6).

11. Jwala Singh, one of the concerned workmen, has been examined as WW2. He has supported his case but he is an interested witness. His evidence can only be accepted if there is reliable corroboration.

12. In my opinion, there are some documents in this case which are extremely important. Ext. W1 is a memorandum of settlement dated 24th February, 1964. Representatives of the management including Shri P. C. Mukherjee and those of the workmen have signed it and so has the Conciliation Officer (C), Dhanbad-I. The fourth item of the terms of settlement is as follows :—

"The matter regarding back S/Shri Ramswarup Singh, Jawala Singh, Kameshwar Singh and Subhas Singh, Chaprasis on duty will be considered and settled mutually within 10 days and the decision will be communicated to the Conciliation Officer (Central), Dhanbad-I, by 6th March, 1964".

13. This term clearly shows that these four chaprasis were employed in the colliery but were stopped from work. The question which was raised, therefore, was relating to their being taken back. It was agreed that the matter would be amicably settled. It seems that this term was carried out because a letter (Ext. W8) written by the Manager of the colliery to the Conciliation Officer (C) on the 3rd June, 1964 says that the settlement dated the 24th February, 1964 had been duly implemented.

14. Another dispute appears to have been raised in connection with the chaprasis. On this occasion, the union appears to have raised a dispute regarding, among other things, irregular employment of four persons. Ext. W2 is the Memorandum of settlement dated the 18th August, 1964. Like Ext. W1, this document has also been signed on behalf of the management by the Director and owner of the colliery, Shri P. C. Mukherjee. It bears the signature of the union representative besides that of the Conciliation Officer (C) himself. Item No. 2 of the terms of settlement is:

"The matter regarding 4 (four) chaprasis will be settled mutually within September, 1964".

15. There is hardly any room for doubt that the chaprasis were being employed irregularly but the management agreed on the 18th August, 1964 to settle the question of their employment mutually by September, 1964. Sri S. S. Mukherjee Advocate, who has appeared on behalf of the management, has argued that the four chaprasis referred to in Ext. W2 may have been chaprasis other than the four chaprasis in question in this case. If, however, Exts. W1 and W2 are read together, there can be no doubt that the four chaprasis mentioned in Ext. W2 were those who were named in Ext. W1. Sri Mukherjee has not been able to urge anything against Ext. W1.

16. Shri P. C. Mukherjee, the Director of Nishitpur Colliery, wrote letter No. N/16/665/64, dated the 10th October, 1964 (Ext. M12) to the Conciliation Officer (C), Dhanbad. It is for the first time in this letter, written in October, 1964, that the Director has written with reference to item four of the terms of settlement dated the 24th February, 1964, that Sri Ramswarup Singh, Sri Jwala Singh, Sri Kameswar Singh and Subhas Singh had never done any duty under his management as chaprasis before or after 24th February, 1964 as far as the records showed. This is clearly an after-thought because I do not see why he could not see the records prior to his appearance before the Conciliation Officer on 24th February, 1964 and entering into the settlement (Ext. W1). Regarding item 2 of the settlement dated the 18th August, 1964 (Ext. W2), he has added in the same letter something which is interesting. He says "It may be stated here that there were talks with the representative of the workmen who pressed for the employment of these persons but we could not accede to his request because of the frequent instances of lawless activities of these four persons who even indulged in and took active part in a serious riot, wrongful confinement and assault to my colliery manager, cashier and others on 27th September, 1964 as a result of which my workers are panic stricken. Enquiries will also reveal that because of violent acts and conduct of these persons, the local police have instituted several proceedings U/S 107/117(3) Cr. P.C. against these persons for maintaining peace.

17. The statement made by the Director which I have quoted above gives a clear indication that the four concerned workmen were stopped from work from the 26th September, 1964 and perhaps that resulted in a riot or breach of the peace next day. I think that that is the clue for the management having taken an adamant attitude of opposing the re-employment of the concerned workmen. Instead of proceeding legally to issue chargesheet against them, to get a domestic enquiry held and, if it was found at the enquiry that they were guilty, to dismiss them, the management appears to have taken shelter behind an untrue case by going to the length of denying that the workmen were ever in the employment of the colliery.

18. The Conciliation Officer wrote letter No. D-144/(197)/64, (Ext. W3), dated the 27th October, 1964, in reply to the above letter written to him by the Director. Among other things, he has said in that letter:

"In this connection I have to draw your attention to your letter No. N/16/316/64, dated 3rd June, 1964 (referring to Ext. W8) in which you have stated to have implemented the terms of settlement dated 24th February, 1964 in full. Moreover, the General Secretary of the union agreed that the chaprasis concerned had been taken back to duty and as such he had no complaint".

"The matter regarding non-payment of wages to the chaprasis again came up before me in July, 1964. The union claimed that chaprasis had been employed but they were paid on voucher and not on the regular wages register. After prolonged discussions the settlement, dated 18th August, 1964

was arrived at in which the matter was left for mutual discussion and settlement within September, 1964”.

“The employment of the chaprasis was the subject matter of the settlement, dated 24th February, 1964 and 18th August, 1964. Each time the representatives of the management agreed to settle the matter by mutual negotiations with the union”.

“Now the union has again represented that the chaprasis have not been paid wages for five weeks only (a copy of the representation enclosed). It is a matter of regret that this matter has not yet been settled so far”.

19. I am not surprised that the Conciliation Officer felt that the management's action was regrettable. In view of Ext. W1, W2, W8, M12 and W3. I have not the slightest doubt in my mind that the four workmen concerned in the case were employees of the Nichtipur Colliery, that they were taken back into service after the 24th February, 1964 but payment was made to them on the basis of vouchers so that they could be got rid of on any date on which the management wanted to turn them out and that the management ultimately did stop them from work with effect from the 26th September, 1964 as alleged by the union. I, therefore, answer the first question put in the schedule by saying that the management of the Nichtipur colliery were not justified in stopping the workmen in question from the 26th September, 1964. The relief to which the workmen are entitled is that they must be reinstated with full back wages and continuity of service from the 26th September, 1964 upto the date of their reinstatement. So far as the second question is concerned, I hold that the management were not justified in employing the workmen without mentioning their names in the relevant records and by paying them by vouchers until the week ending 25th September, 1964. It is difficult, however, to find out whether anything remained due to the workmen from the management for the period ending the 26th September, 1964. Had there been evidence to prove what was due to them, I would have held them to be entitled to that amount also. As it is, the relief which I have held them above to be entitled to is the only relief which can be given to them.

20. This is my award. Let it be submitted to the Central Government under section 15 of the Industrial Dispute Act, 1947.

Sd./- KAMLA SAHAI,
Presiding Officer.

[No. 2/8/65/LRII.]

New Delhi, the 26th August 1968

S.O. 3043.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to Messrs New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, of Messrs New Standard Coal Company (Private) Limited, 85/86, Stephen's House, 4, Dalhousie Square East, Calcutta-1 and Madhavji K. Varma and Sons (Private) Limited, New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of the one part and their workmen of the other part, which was received by the Central Government on the 19th September, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

CASE REF. NO. CGIT/LC(R) (47) OF 1967 (JABALPUR TRIBUNAL)
CASE REFERENCE NO. 102 OF 1964 (DHANBAD TRIBUNAL)

PARTIES:

Employers in relation to M/s. New Standard Lodna Colliery, P.O. Jharia, Distt. Dhanbad, of M/s. New Standard Coal Company (P) Limited, 85/86, Stephen's Square House, 4, Dalhousie Square East, Calcutta-1, and Madhavji K. Varma and Sons (P) Limited, New Standard Lodna Colliery, P.O. Jharia, District Dhanbad of the one part.

Versus:

Their Workmen represented through Colliery Mazdoor Sangh, Dhanbad.

APPEARANCES:

For employers.—1. Sri D. Narsingh, Advocate, for New Standard Coal Co. (P) Ltd., and Special Officer, Sri K. C. Mukerji.

2. Sri M. P. Baliase for M/s. Madhavji K. Varma & Sons (P) Ltd.

For workmen.—Sri Shanker Bose, Secretary, Colliery Mazdoor Sangh.

INDUSTRY: Coal Mine

DISTRICT: Dhanbad Bihar).

AWARD

By Notification No. 1/15/64-LR.II dated 17th August, 1964, the Ministry of Labour and Employment, Government of India, referred the following matter of disputes as stated in the schedule to the order of reference, to Dhanbad Tribunal for adjudication and from where it was transferred to this Tribunal *vide* Government Notification No. 8/25/67-LR.II dated 25th April, 1967:—

Matters of Dispute

1. Whether or not the workmen of the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, referred to in Annexure 'A' are entitled to be retained in service consequent on the transfer of the colliery management from Messrs New Standard Coal Company (Private) Limited to Messrs Madhavji, K. Varma and Sons (Private) Limited? In either case, to what relief are the workmen entitled?

2. To what relief are the workmen of the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, referred to in Annexure 'B' who were retained in service in stages consequent on the transfer of the Colliery management to Messrs Madhavji K. Varma and Sons (Private) Limited, entitled in respect of the period of their unemployment from the 29th June 1963 to the respective dates of their absorption?

3. To what relief are the workmen of the New Standard Lodna Colliery, referred to in Annexures 'A' and 'B' entitled in respect of their unpaid dues, if any, for the period prior to 29th June 1963 and if so from whom?

ANNEXURE A

Banadhi Bhuia Sirdar

Miners.

1. Sri Jageswar Bhuia
2. Sri Bisheswar Bhuia
3. Sri Bideshi Bhuia
4. Sri Pali Bhuia
5. Sri Anul Bhuia
6. Sri Rohari Singh
7. Sri Ch. Kishun Bhuia
8. Sri Karu Bhuia
9. Sri Bandhu Bhuia
10. Sri Somaru Bhuia
11. Sri Sohari Bhuia
12. Sri Bandhari Bhuia
13. Sri Karo Bhuia
14. Sri Budhan Bhuia
15. Sri Sugdeo Bhuia
16. Sri Aklu Bhuia-3
17. Sri Mathura Bhuia-2
18. Sri Sariu Bhuia-2
19. Sri Chattawar Bhuia
20. Sri Mungeswar Bhuia
21. Sri Dhaneswar Bhuia
22. Sri Ramchandra Bhuia
23. Sri Chandra Bhuia
24. Sri Basdeo Mudi
25. Sri Makun Singh
26. Sri Ramchandra Bhuia
27. Sri Bundhu Bhuia
28. Sri Susari Mukik

Sokhu Bauri, Sirdar

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1. Shri Bakhu Bauri
2. Shri Nanulal Majhi
3. Shri B. Lakhu Bauri

4. Shri Santan Bauri
5. Shri Panu Bauri
6. Shri Lakhu Bauri-2
7. Shri Mapakir Barui
8. Shri Deta Barui
9. Shri Gombhira Barui
10. Shri Ray Bapachur
11. Shri Malik Ram
12. Shri Bhoty Sawo
13. Shri Mapakir Sawo
14. Shri Kalu Barui
15. Shri Hori Barui
16. Shri Harman Modi
17. Shri Gandhi Modi
18. Shri Sambhu Modi.

Bistu Majhi, Sirdar

1. Shri Naran Majhi
2. Shri Nanulal Majhi
3. Shri Ganesh Majhi
4. Shri Tinuru Majhi
5. Shri Moli Kamar
6. Shri Salian Maihi
7. Shri Lokhiram Majhi
8. Shri Manager Majhi
9. Shri Buney Majhi
10. Shri Muli Majhi
11. Shri Ishar Majhi
12. Shri Bundeswar Majhi
13. Shri Rohi Majhi

Kali Ram Majhi, Sirdar

1. Shri Khundu Majhi
2. Shri Budhan Majhi.
3. Shri Lakhiram Majhi
4. Shri Goda Majhi
5. Shri Kuhar Majhi
6. Shri Barka Majhi
7. Shri Ganga Ram Majhi.
8. Shri Motilal Mamar
9. Shri Sarahun Modi
10. Shri Sukali Majhi
11. Shri Rohan Majhi
12. Shri Chotu Rajwar
13. Shri Behari Mamar
14. Shri Yoli Majhi
15. Shri Berpai Majhi
16. Shri Paitu Rajawar
17. Shri Isar Majhi
18. Shri Bhitai Majhi.

Ram Sahai Majhi, Sirdar

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|-------------------------|---------------------------|
| 1. Shri Marum Majhi | 18. Shri Sunu Majhi |
| 2. Shri Bishunath Majhi | 19. Shri Surundra Majhi |
| 3. Shri Masmajhi | 20. Shri Baryui Majhi |
| 4. Shri Kali Makhi | 21. Shri Suruj Majhi |
| 5. Shri Yiswar Majhi | 22. Shri Lakhiram Majhi |
| 6. Shri Budeswar Majhi | 23. Shri Bhuru Majhi |
| 7. Shri Mohan Majhi | 24. Shri Moliud Majhi |
| 8. Shri Panchan Majhi | 25. Shri Badal Majhi |
| 9. Shri Budhu Majhi | 26. Shri Bikal Majhi |
| 10. Shri Sam Majhi | 27. Shri Ramchandra Majhi |
| 11. Shri Piru Majhi | 28. Shri Sukra Orang |
| 12. Shri Yipur Majhi | 29. Shri Mangra Orang |
| 13. Shri Kenaram Majhi | 30. Shri Yagar Nath Orang |
| 14. Shri Aghnu Majhi | 31. Shri Govinda Majhi |
| 15. Shri Dibi Majhi | 32. Shri Bundhu Modi |
| 16. Shri Paresb Majhi | 33. Shri Kali Amar |
| 17. Shri Foni Majhi | 34. Shri Maheswar Majhi |

35. Shri Yoli Majhi
36. Shri Chuth Rohi Majhi

Ram Nath Pasi, Sirdar.

1. Shri Deonarain Pasi
2. Shri Sanchoo Pasi
3. Shri Ramyatan Kurmi
4. Shri Raj Kumar Pasi
5. Shri Monulal Pasi
6. Shri Ramasankar Koiree
7. Shri Ramkrit Jaswara
8. Shri Chulu Nath Pasi
9. Shri Babulal Koiree
10. Shri Yhattar Jaswara
11. Shri Yaugo Pasi
12. Shri Balai Jaswara
13. Shri Ram Dular Pasi
14. Shri Ramnath Pasi-2
15. Shri Mathura Jadava
16. Shri Liloo Pasi
17. Shri Nankoo Jaswara
18. Shri Sheolal Pasi
19. Shri Latar Pasi
20. Shri Ramdular Koiree
21. Shri Gouri Sankar Gorai
22. Shri Sheo Murat Pasi
23. Shri Yai Mangal Pasi
24. Shri Tilup Bhuia
25. Shri Mineswar Prasad
26. Shri Tilak Bhuia
27. Shri Bhuneswar Prasad
28. Shri Ramharakh Pasi
29. Shri Barhon Sahu-2
30. Shri Ramsharan Kole
31. Shri Tetar Pasi

1. Shri Gaya Tewari—Munshi
2. Shri Ramprobesh—Munshi
3. Shri Sheosankar Jha—Munshi
4. Shri Balkeswar Tewari—Att. Clerk
5. Shri Guhi Ram Hazari—Att. Clerk
6. Shri Baleswar Singh—Att. Clerk
7. Shri Moti Jadav—Night Guard.

Banksmen and Onsetters

1. Shri Deo Kishun Gope—Onsetter
2. Shri Ram Kewal Singh—Onsetter
3. Shri Dip Narayan Jadav—Onsetter
4. Shri Jadunandan Singh—Banksman
5. Shri Girja Prasad—Banksman
6. Shri Narsingh Mahanty—Banksman

Electrical and Mechanical

1. Shri Etwari Bhuia—Tag. Khalasi
2. Shri Puna Rajawar—Tag. Khalasi
3. Shri Kishundeo Roy—Tag. Khalasi
4. Shri Mahesh Tewari—Tag. Khalasi
5. Shri Haru Gorai—Tag. Khalasi
6. Shri Jugal Kishore Tewari—Fitter Maz.

7. Shri Faudari Mia—Line Mistry
8. Shri Ramjiban Tewari—Line Maz.
9. Shri Lalan Tewari—Fitter Mistry
10. Shri Gariban Jado—Elec. Helper
11. Shri Jagadish Ram—Tyandal Maz.

Medical and Sanitary

1. Shri Surju Kamin—Midwife
2. Shri Chari Saurin—Creche Aya
3. Shri Chanchala Harin—Sweeper
4. Shri Mahavir Hari—Sweeper
5. Shri Narayan Hari—Sweeper
6. Shri Dhaneswar Hari—Sweeper
7. Shri Shiboo Hari—Sweeper
8. Shri Butar Hari—Sweeper

Trammers

1. Shri Sitabi Bhuia
2. Shri Ghuro Bhuia
3. Shri Mahavi Bhuia
4. Shri Gobinda Bhuia
5. Shri Naurangi Bhuia
6. Shri Jodhan Bhuia
7. Shri Masho Bhuia
8. Shri Ramdhani Bhuia
9. Shri Badri Ram
10. Shri Sita Ram Mahato
11. Shri Akhileswar Paswan
12. Shri Prasad Mahato
13. Shri Sanichar Ram
14. Shri Hari Ram
15. Shri Bineshwar Pasman
16. Shri Butai Mahato
17. Shri Sitaram Mandal
18. Shri Ghutur Pasman
19. Shri Rupa Mahato
20. Shri Rameswar Mahato
21. Shri Kaliash Dhari-1.
22. Shri Ratan Dhari
23. Shri Brahdeo Dhari-1.
24. Shri Bholawa Dhari
25. Shri Kailash Dhari-12.
26. Shri Brahmadeo Dhari-2.
27. Shri Ramsakil Mali
28. Shri Raja Ram Mali
29. Shri Naurangi Dhari
30. Shri Raghunath Dhari
31. Shri Jadunath Singh
32. Shri Bachhur Tewari
33. Shri Kaliash Roy
34. Shri Ramsaran Hadav.

Wagon Loaders

1. Shri Jhari Bhuia
2. Shri Tulis Bhuia
3. Shri Gunya Bhuia
4. Shri Genwa Kamin
5. Shri Lachumini Kamin
6. Shri Yaumna Kamin
7. Shri Yusik Kamin
8. Shri Jaina Orang
9. Shri Manback Das
10. Shri Siboo Das
11. Shri Charwan Das

12. Shri Atewari Orang
13. Shri Bilasi Kamin
14. Shri Yitni Kamin
15. Shri Malo Kamin
16. Smt. Parkal Devi
17. Smt. Enwa Devi

18. Smt. Rabani Devi
19. Smt. Mohani Devi
20. Smt. Fulwar Devi
21. Smt. Chamelwar Devi
22. Smt. Hasmol Bibi
23. Smt. Sabun Bibi

ANNEXURE 'B'

(List of employed workers)

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|--|--|
| 1. Shri B. B. Varma—Overman Inch | 37. Shri Nilkantha Singh—Winding E. Kh. |
| 2. Shri G. P. Mandal—Mech. Sup. | 38. Shri Gobardhan Rewani— Winding E. Kh. |
| 3. Shri A. Das—Surveyor | 39. Shri Narain Ch. Mukherji— Munshi |
| 4. Shri A. N. Sarkar—II Clerk | 40. Shri Ramanuj Roy—Office Peon |
| 5. Shri S. R. Mukherji—Asstt. Clerk | 41. Shri Chandradeo Singh—Night Guard |
| 6. Shri N. C. Mittra—Storekeeper | 42. Shri Madan Mohan Duncy— Night Guard |
| 7. Shri B. C. Kundu—Bill Clerk | 43. Shri Krishan Avator Pandey— Night Guard |
| 8. Shri Paresh Ch. Chatterji— Loading Clerk | 44. Shri Khosmohamed Mia— Banksman |
| 9. Shri R. N. Jha—School Teacher | 45. Shri Samir Mia—Banksman |
| 10. Shri B. Sinha—Creche Inch. | 46. Shri Joynul Mia—Banksman |
| 11. Shri B. Banerji—Compounder | 47. Shri Jagan Nath Mahato— Banksman |
| 12. Shri S. S. Sharma—Attd. Clerk | 48. Shri Ritalal Mahato—Banksman |
| 13. Shri S. P. Mukherji—Attd. Clerk | 49. Shri Balkishun Jadav—Banks- man |
| 14. Shri Thakurdas Modak—Mining Sirdar | 50. Shri Bikishun Jadav—Banksman |
| 15. Shri Govinda Chatterji—Mining Sirdar | 51. Shri Lala Dhaikar—Fireman |
| 16. Shri Abdul Gofter Mia—Mining Sirdar | 52. Shri Saguni Dubey—Fireman |
| 17. Shri Budhu Mia—Mining Sirdar | 53. Shri Abdul Jabbar Mia—Fire- man |
| 18. Shri Thakuri Dhubi—Mining Sirdar | 54. Shri Sultan Mia—Fireman |
| 19. Shri Keshab Kore—Mining Sirdar | 55. Shri Nazir Ahmad Mia—Fire- man |
| 20. Shri Chotu Kole—Mining Sirdar | 56. Shri Bishu Bhuia—Boiler ash Cl. |
| 21. Shri Bhugol Modak—Electrician | 57. Shri Bansi Bhuia—Boiler ash Cl. |
| 22. Shri Dharamdeo Singh—Asst. Elect. | 58. Shri Sudamia Bhuiya—Boiler ash Cl. |
| 23. Shri Sahabat Mia—Fitter | 59. Shri Keshoa Bhuia—Boiler ash Cl. |
| 24. Shri Nadorzome—Boiler Tyndal | 60. Shri Gokak Gorai—H. E. Khalasi |
| 25. Shri Ram Nath Ram—Car Driver | 61. Shri Satish Das—H. E. Khalasi |
| 26. Shri Alam Khan—Guard | 62. Shri Hari Dauri—H. E. Khalasi |
| 27. Shri Gernomy Roy—Night Guard | 63. Shri Samar Barhi—Blacksmith |
| 28. Shri Rakrit Singh—Night Guard | 64. Shri Ramuchit Roy—Hammer- man |
| 29. Shri Baikuntha Roy—Night Guard | 65. Shri Akloo Ram—Hammerman |
| 30. Shri Beni Tewari—Night Guard | 66. Shri Rampati Barni—Hammer- man |
| 31. Shri Darogi Roy—Night Guard | 67. Shri Babulal Hari—Dresser |
| 32. Shri Jhaboo Ruhidas—Store Peon | 68. Shri Moti Hari—Sweeper |
| 33. Shri Sanichari Bhuia—Loading Chaprasai | 69. Shri Bharat Hari—Sweeper |
| 34. Shri Jagan Nath Das—Winding E. Kh. | 70. Shri Basanti Harin—Sweeper |
| 35. Shri Gopal Bauri—Winding E. Kh. | |
| 36. Shri Ramu Mahato—Winding E. Kh. | |

71. Shri Sahagi Haria—Sweeper
72. Shri Nakul Hari—Sweeper
73. Shri Basani Bauria—Picking Kamin.
74. Shri Mungi Bauria—Picking Kamin
75. Shri Kabutori Bhin—Picking Kamin
76. Shri Dhanoa Kamin—Picking Kamin
77. Shri Rambrij Mahato—Pump Khalasi
78. Shri Radha Mahato—Pump Khalasi
79. Shri Ganjo Mahato—Pump Khalasi
80. Shri Ramkishum Roy—Pump Khalasi
81. Shri Misri Pasi—Pump Khalasi
82. Shri Banamali Mahanty—Pump Khalasi
83. Shri Ahmed Mia—Pump Khalasi
84. Shri Ainul Mia—Pump Khalasi
85. Shri Bundi Pasman—Pump Khalasi
86. Shri Nirmal Kumar Singh—Pump Khalasi
87. Shri Chhakan Turi—Pump Khalasi
88. Shri Palo Pasman—Pump Khalasi
89. Shri Kudrat Mia—Onsetter
90. Shri Fago Mahato—Onsetter
91. Shri Chhakari Mahato—Onsetter
92. Shri Kalahar Sawo—Onsetter
93. Shri Bhola Majhi—Onsetter
94. Shri Asin Mia—Onsetter
95. Shri Basdeo Pandey—Elec, Helper
96. Shri Thakur Mahato—Chairman
97. Shri Ganesh Ram—Water Maz
98. Shri Sovani Mia—Line Mistry
99. Shri Sarju Rewani—Line Mistry
100. Shri Naran Ram—Line Maz.
101. Shri Budhon Ram—Line Maz.
102. Shri Sakol Rubidas—Line Maz.
103. Shri Nankoo Dosad—Line Maz.
104. Shri Hari Mandal—Line Maz.
105. Shri Misri Pasman—Line Maz.
106. Shri Khoyrat Mia—Fitter Maz.
107. Shri Mahadul Mia—Light Tyn.
108. Shri Sanichar Ram—Light Tyn.
109. Shri Sukhdeo Malla—Light Tyn.
110. Shri Ramprasad Jaswara—Light Tyn.
111. Shri Rajeswar Singh—J'G Munsi
112. Shri Mahadev Pasi—J'G Munsi
113. Shri Isaq Mia—Timberman
114. Shri Gullar Sawe—Timberman
115. Shri Pemnon Mahato—Timberman
116. Shri Rajak Mia—Timberman
117. Shri Dhanpa. Barhi—Timberman
118. Shri Mahavir Sawo —Timberman
119. Shri Budhon Mahato—Timber Maz.
120. Shri Budhai Mahato—Timber Maz.
121. Shri Barhon Mahato No. 1—Timber Maz.
122. Shri Barhon Mahato No. 2—Timber Maz.
123. Shri Jaba Mahato—Timber Maz.
124. Shri Husmali Mia—Timber Maz.
125. Shri Manki Mahato—Timber Maz.
126. Shri Rahamali Mia—Timber Maz.
127. Shri Jumratia Mia—Timber Maz.
128. Shri Sitaram Mahato—Timber Maz.
129. Shri Rohan Sawo—Timber Maz.
130. Shri Kishun Mahato—Timber Maz.
131. Shri Dagan Mahato—Timber Maz.
132. Shri Madaswar Ram—Timber Maz.
133. Shri Rahaman Mia—Timber Maz.
134. Shri Samar Mahato—Coal Dust Cleaner
135. Shri Balai Meot—Coal Dust Cleaner
136. Shri Bachai Jaswara—Tagger Khalasi
137. Shri Azim Khan Carpenter
138. Shri Chotu Barhi—Carpenter
139. Shri Hira Bhuiya—Wagon Loaders.
140. Shri Fulia Bhia—Wagon Loaders.
141. Shri Lutena Bhuia—Wagon Loaders.
142. Shri Jahajani Bhuia—Wagon Loaders.
143. Shri Tetar Bhuia—Wagon Loaders.
144. Shri Tulsi Bhuia No. 2—Wagon Loaders.
145. Shri Badamia Bhuia—Wagon Loaders.
146. Shri Bechon Bhuia—Wagon Loaders.
147. Shri Ajnosia Bhuin—Wagon Loaders.
148. Shri Etwaria Bhuian—Wagon Loaders.

149. Shri Halimon Bibi—Wagon Loaders.
150. Shri Amna Bibi—Wagon Loaders.
151. Shri Kulsom Bibi—Wagon Loaders.
152. Shri Hazra Bibi—Wagon Loaders.
153. Shri Jago Mahato—Trammer
154. Shri Nakat Sawo—Trammer
155. Shri Jagadish Pasman—Trammer
156. Shri Ramdhani Pasman No. 2—Trammer
157. Shri Ramavatar Pasman—Trammer
158. Shri Janki Pasman—Trammer
159. Shri Sakalid Roy—Trammer
160. Shri Kishun Ram—Trammer
161. Shri Daro Mahato—Trammer
162. Shri Budhon Bhuia—Trammer
163. Shri Ramsarup Pasman—Trammer
164. Shri Khoroo Mahato—Trammer
165. Shri Amic Pasman—Trammer
166. Shri Hari Mandal—Trammer
167. Shri Sadagar Bhuia—Trammer
168. Shri Mahadev Mahato—Trammer
169. Shri Siddique Mia—Trammer
170. Shri Ramchandra Mandal No. 1—Trammer
171. Shri Bishu Pasman—Trammer
172. Shri Musoram—Trammer
173. Shri Mathura Pasman—Trammer
174. Shri Mathura Mahato—Trammer
175. Shri Khublal Sawo—Trammer
176. Shri Pairec Pasman—Trammer
177. Shri Gurusahay Bhuia—Trammer
178. Shri Joymangal Roy—Trammer
179. Shri Malko Pasman—Trammer
180. Shri Jhingon Mahato—Trammer
181. Shri Dukhi Ram—Trammer
182. Shri Gohan Pasman—Trammer
183. Shri Fagoo Pasman—Trammer

1. Abas Mia
2. Bishu Mia
3. Mohd. Mia
4. Chuni Gope
5. Dasarath Gorai
6. Shri Dhanu Saw
7. Ramlal Pasi
8. Barho Sawo
9. Jageswar Sawo
10. Dhanu Sawo No. 2
11. Bishambar Pasi
12. Ramcharan Pasi
13. Ram Sahay Pasi
14. Bisnath Pasi
15. Ramvarsa Jaswara
16. Lalta Pd. Jaswara
17. Abhilak Pasi No. 2
18. Baramdin Pasi
19. Sagirdiya Pasi
20. Margo Pasi
21. Ram Pd. Pasi
22. Lakhan Maji
23. Vaidyanath Maji
24. Gomia Maji
25. Sambhu Maji
26. Budhu Maji
27. Bittal Bhuiya
28. Sohari Bhuiya
29. Amrit Bhuiya
30. Sikhon Bhuiya
31. Koila Bhuiya
32. Mahadeo Bhulan
33. Johri Bhuiya
34. Lakhan Bhuia
35. Bigan Bhuia No. II
36. Trilok Bhuia.
37. Maheshwar Bhuia.
38. Jagdev Bhuia
39. Rameshwar Bhuia 5
40. Sada Akloo Bhuia
41. Sita Bhuia No. 2
42. Munshi Mahato
43. Bhokan Bhuia
44. Buneswar Bhuia
45. Pun Bhuia No. 2
46. Jaldhari Bhuia
47. Rameshwar Bhuia No. II
48. Ch. Bifan Bhuia
49. Teni Bhuia
50. Akloo Bhuia
51. Madan Bhuia
52. Faguni Bhuia
53. Pargas Hazam
54. Bilash Hazam
55. Hullar Jaswara
56. Ramkrijon Jaswara
57. Daneshwar Mahato
58. Ramnath Pasi.
59. Banadhi Bhuia
60. Kaliram Maji
61. Baijnath Pashi
62. Kotimon Posman
63. Bifan Bhuia
64. Rameshwar Bhuia-1
65. Lalta Prasad Sahu
66. Rishi Puri
67. Mewalal Kuri
68. Subaran Pasi
69. Provu Pasi
70. Choba Pasi
71. Jaran Chamar
72. Jamahir Sawo
73. Babu Lal Kurmi
74. Parhalad Jaswara

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|--------------------------|------------------------|
| 75. Parbhu Jaswara | 129. Dukhon Bhuia |
| 76. Girdhari Mahto | 130. Faudari Bhuia |
| 77. Samar Sawo | 131. Pun Bhuia |
| 78. Khublal Pasi | 132. Panu Bhuia |
| 79. Hublal Pasi | 133. Jawabi Bhuia |
| 80. Gokul Pasi | 134. Bishamhar Bhuia |
| 91. Nakto Pasi | 135. Karo Bhuia-2 |
| 82. Balgobind Pasi | 136. Chotu Bhuia |
| 83. Mewalat Pasi | 137. Suruj Bhuia |
| 84. Jamahir Mia | 138. Mangar Bhuia |
| 95. Sahajada Mia | 139. Sahdeo Bhuia |
| 86. Bandhu Bhuia-1 | 140. Bigan Bhuia-1 |
| 87. Jago Pasi | 141. Ch. Rameshwar |
| 88. Nano Lodh | 142. Umama Bhuia |
| 89. Kala Pasi | 143. Jogeshwar Bhuia |
| 90. Lukai Pasi | 144. Dukhon Bhuia |
| 91. Natko Pasi | 145. Keshar Dosad |
| 92. Kishun Bhuia | 146. Bishun Mahato |
| 93. Tibroo Maji | 147. Parmeshwar Dosad. |
| 94. Moni Ram Majhi | 148. Sabol Sawo |
| 95. Munsuk Majhi | 149. Bighu Bhuia |
| 96. Simanta Kumar | 150. Ramchani Bhuia |
| 97. Ramsahay Majhi | 151. Jongi Bhuia |
| 98. Ramdev Bhuia | 152. Akloo Bhuia-4 |
| 99. Sibrat Bhuia | 153. Sarjugpa Bhuia-3 |
| 100. Bandhu Doasad | 154. Madho Bhuia |
| 101. Jagdish Bhuia | 155. Budhon Bhuia |
| 102. Jago Bhuia | 156. Sarjugon Bhuia |
| 103. Jogi Bhuia | 157. Karo Bhuia-5 |
| 104. Mangar Singh | 158. Madho Bhuia-2 |
| 105. Fagoo Singh | 159. Sukra Orang |
| 106. Mathura Bhuia No. 3 | 160. Goomasta Mjhi |
| 107. Babulal Bhuia | 161. Lakhiram Majhi |
| 108. Sitaram Gope | 162. Baneswar Majhi |
| 109. Malikchand Bhuia | 163. Moti Kumar |
| 110. Tega Bhuia | 164. Chotu Majhi |
| 111. Babulal Bhuia-2 | 165. Charan Majhi |
| 112. Birich Bhuia | 166. Adlat Majhi |
| 113. Bhulu Bauri | 167. Bhola Majhi |
| 114. Sadananda Bauri | 168. Barka Majhi |
| 115. Panu Bauri | 169. Biatu Majhi |
| 116. Khandu Bauri | 170. Noor Mohd. Mia |
| 117. Shankar Bauri | 171. Abdul Mia-1 |
| 118. Saukhu Bauri | 172. Najir Mia |
| 119. Kali Bauri-2 | 173. Muslim Mia |
| 120. Ratan Bauri | 174. Degan Gope |
| 121. Akloo Bhuia-3 | 175. Nankoo Gope |
| 122. Rameshwar Bhuia-3 | 176. Jalsi |
| 123. Sarjugoa Bhuia-1 | 177. Hullash Dhu'bi |
| 124. Fufeshwar Bhuia-2 | 178. Koila Bhuia |
| 125. Kesar Bhuia | 179. Chotu Sawo |
| 126. Mohan Mahato | 180. Eamfer Jaswara |
| 127. Jageshwar Bhuia-2 | 181. Xhuramon Sawo |
| 128. Ramchandra Bhuia | |

2. It is necessary to give some history in the background of which this dispute has been referred for adjudication. M/s. New Standard Coal Company (P) Ltd., to be hereinafter called Coal Company, is the owner of the Colliery known as New Standard Lodna Colliery, to be hereinafter described as Colliery. Because of mismanagement and dispute among Directors the affairs of the colliery were in a bad state and even the workers were not paid some back wages. The condition of the mine became so dangerous for working that the Regional Inspector of Mines passed an order under Sec. 22 of the Mines Act on or about 29th June, 1963 ordering the mine to be closed. Meanwhile an application of some of the shareholders of the Coal Company under Sec. 398 and 402 of the Companies Act, 1956 the Hon'ble High Court of Calcutta by an order dated 3rd October, 1963 appointed Sri K. C. Mukerji, Bar-at-Law, who is also arrayed as a party in the dispute on behalf of the management of the Coal Company, as Special Officer. The Board of Directors was superseded and powers of the Board were vested in the Special Officer. He was directed to call a meeting of the shareholders to ascertain their

views for the purpose of raising finance and to consider offer of one of the Directors Sri C. M. Verma of M/s. Madhavji K. Verma and Sons (P) Ltd., to be hereinafter called Verma and Sons. On the report of the Special Officer, the Hon'ble High Court on 22nd November, 1963 accepted the offer for a lease to be made for Sri Verma. Later on, by an order dated 7th February, 1964 leave was granted to the Special Officer to enter into an agreement for lease with Verma and Sons and in pursuance thereof an agreement for lease was executed on 11th February, 1964. Verma and Sons then came in formal possession of the colliery and operated the Colliery till 26th August, 1964. They had to lose possession on application of some of the shareholders to the High Court. The High Court directed that possession be taken from Verma and Sons and the Special Officer should apply to State and Central Governments for formal permission to grant lease. The Special Officer was, however, directed to run the Colliery with the help of Verma and Sons and obtain loans and advances from them. There were appeals to the Appellate Court and again an application to the Court was made and ultimately the Hon'ble High Court by an order directed that the Special Officer shall run the Colliery and appointed one Sri Pradip Basu one of the Directors in the Company as Agent. Consequently, besides the management of Coal Company and the Special Officer appearance was also made on behalf of Sri Pradip Basu at a late stage in the hearing rendered on 23rd March, 1968 at Dhanbad. The Colliery it appears is being run now by Sri Pradip Basu as Agent under the control of the Special Officer. It will thus be noted that the formal possession of Verma and Sons which is arrayed as party No. 1 remained only from February to August, 1964 and they had to surrender possession because no valid lease was executed by the Special Officer.

3. From the conciliation failure report, it appears that as soon as Verma and Sons formally opened up the Colliery, the Union President, Colliery Mazdoor Sangh. brought forward the grievance of the workers before the Regional Labour Commissioner complaining that several lacs of rupees were due to workers for unpaid wages and that Verma and Sons should be required to pay the dues of the workers before running the Colliery and further old workers should be employed. The Conciliation Officer held various sittings before whom both the Special Officer and representative of Verma and Sons participated. All the relevant records do not appear to have been produced in conciliation. For the demand of the Union Verma and Sons seem to have agreed to pay wages due to workers prior to 29th June, 1963 as might be determined after audit. For the period 29th June, 1963 to 6th February 1964 they disowned the liability to pay anything for the idle period but assured that old workers would be re-employed without disturbing the continuity of service. As the workers were being employed in stages, Verma and Sons did not further accept the liability to pay wages till workers were absorbed. The Conciliation Officer then submitted a failure report and which in due course resulted in this reference.

4. Before the Dhanbad Tribunal another Union, Khan Mazdoor Congress, which was not concerned with this dispute and had sponsored two other cases resulting in other references filed a statement of claim. The Colliery Mazdoor Sangh which was the proper Union filed the statement of claim on 21st August, 1965. Verma and Sons also filed a statement of claim before the Dhanbad Tribunal on 24th May, 1965. The Special Officer filed the statement of claim before this Tribunal on 15th February 1968. Before that, it had been pressed both on behalf of the Special Officer and Verma and Sons that the proceedings could not continue and the Tribunal had no jurisdiction because the Hon'ble High Court at Calcutta was seized with the matter. After hearing the parties, it was ordered on 23rd December, 1967 that as there had been no winding up order Sec. 446 of the Companies Act was not attracted. The objection was overruled and proceedings were directed to be commenced. It was then alone that the Special Officer filed the statement of claim after taking time. Later on, on behalf of the Coal Company and the new Agent, Sri Pradip Basu time was taken which was allowed. When the case was taken up for hearing on 8th May, 1968, the Union was directed to furnish a statement showing the workmen employed and absorbed in stages from 29th June onwards, a matter covered by issue No. 2 under reference. The Union was further directed to prepare statement about the dues which had remained unpaid to each worker and the period for the same. These statements were filed by the Union and was proved by the evidence of Sri Bhagwat Tripathi (W.W.1) at the hearing rendered on 16th July, 1968. They were marked Ex. W/1 to W/2. He also proved copies of certain letters Ex. W/3 to W/6. Verma and Sons attempted to introduce an additional written statement at this last stage of the hearing which was not allowed, they having had already filed written statement before the Dhanbad Tribunal. They, however, examined one witness Sri R. B. Kidder who proved copies of certain documents Ex. E/1 to E/8. The Special Officer and as a matter of fact the Coal Company were both represented through Sri D. Narsingh, Advocate, who did not examine any witness. The hearing thereafter was concluded after hearing arguments,

5. Certain preliminary objections which have been taken on behalf of the Coal Company and also by Verma and Sons may first be disposed of. For the Coal Company, it was contended by Sri D. Narsingh that by reason of recent decision of the Hon'ble Supreme Court in *Sindhu Resettlement Corporation Ltd., Vs. Industrial Tribunal, Gujarat* and others reported in 1968 (1)LLJ p. 834, it is necessary that a demand should have been made by the workmen to the employers before it could be an industrial dispute. It was contended that no such demand was made by the workers from the Coal Company and such a demand was made by Verma and Sons only during conciliation. Consequently, there was no industrial dispute so far as the Coal Company was concerned and the Government was not competent to make the reference. The case of *Sindhu Resettlement* (supra) is clearly distinguishable. In that case, there had been no demand made for reinstatement during conciliation but only for payment of retrenchment compensation. The reference, however, was for reinstatement based on a communication from the Union to the Ministry. On these facts, the Hon'ble Supreme Court held that there was no demand made for reinstatement and therefore there could be no reference. The conciliation failure report, however, shows that the demand of the workers was directed against the management and as a matter of fact, there was participation on behalf of the Special Officer for the Coal Company and for Verma and Sons also. All the three issues under reference were specifically demanded and considered in the conciliation proceedings. Consequently, this objection of the Coal Company is untenable.

6. On behalf of Verma and Sons, it has been contended that they had never the employers as no lease was executed in their favour. There was only an agreement to execute a lease and since statutory necessary permission had not been obtained by the Special Officer the Hon'ble High Court, Calcutta, vacated the order to execute lease and the possession went out of their hands on 25th August, 1964. This argument is clearly untenable. They were the *defacto* employers for the period 11th February, 1964 to 25th August, 1964. They were the *defacto* employers for the period 11th February, 1964 to 25th August, 1964 of the Hon'ble High Court and on an agreement with the Special Officer. It may be that they were not the lessee and could not continue in possession for want of execution of a valid lease. All the same, they were the virtual employers for the period during which they were in possession. The issues under reference may now be considered one by one.

Issue No. 1.—From the wordings of the issue, transfer of management is assumed in favour of Verma and Sons. It may be noted that the date of reference is 17th August, 1964 by which time Verma and Sons had not lost possession by order of the Hon'ble High Court. Evidently, it was assumed that Verma and Sons would continue in possession. The workers mentioned in Annexure A cannot claim as a matter of right employment on transfer of a business or management. Their only remedy lies with the transferee to recover compensation under Sec. 25FF. A similar dispute about 301 workers was referred to Central Government Industrial Tribunal No. II, Dhanbad, Ref. Case No. 15/67. The learned Tribunal in his award dated 21st May, 1968 published in the Gazette dated 15th June, 1968 held that Sec. 25FF would be attracted and the workers would be entitled to compensation and not to employment. It may be that under an agreement with the Special Officer, Verma and Sons may have undertaken to employ old workers but that is a matter which is relevant for adjustment of civil rights between the Coal Company and Verma and Sons. The workers were not party to the agreement and cannot claim any right therefrom. I wholly agree with the view taken by the learned Dhanbad Tribunal No. II that the workers are not entitled to be retained on transfer of management and are only entitled to compensation under Sec. 25FF to be determined by the appropriate Labour Court.

Issue No. 2.—It appears that on starting the Colliery Verma and Sons had no records to ascertain the seniority of workers as the same had been removed by the Special Officer for audit purposes. Ex. W/2 to W/4 are copies of some of the letters exchanged between the Special Officer and the Union from which it appears that the records had been removed for audit purposes by the Special Officer. The conciliation failure report, however, shows that before the Conciliation Officer and presumably on the basis of the terms of agreement Verma and Sons agreed to employ old employees with continuity of service but disowned liability to pay wages for the period of idleness till employed. As already held under Issue No. 1, rights and liability between Coal Company and Verma and Sons cannot be determined in these proceedings. That is essentially a civil matter and in which complicated questions of law and fact will necessarily arise. Each one of the two employers, the Coal Company and the Verma and Sons has been shifting responsibility and throwing the same on the other. As adverted to earlier, the agreement between Coal Company and Verma and Sons is a matter between these two *inter se* and the workers therefrom can derive no advantage. They can only claim compensation under Sec. 25FF subsequent to the period of un-employment from 29th June, 1963 to be determined by the appropriate Labour Court on application.

Issue No. 3.—For unpaid dues before 29th June, 1963 evidently Coal Company was liable. The stand taken by the Coal Company is that by reason of the agreement Verma and Sons had taken upon themselves the liability to pay the outstanding dues and the fact was admitted during conciliation to whom appear from the conciliation failure report itself. Evidently that admission was made in conciliation on the assumption that Verma and Sons would continue to be in possession as a lessee on execution of a valid lease. That, however, did not fructify. In any case the fact that there had been an agreement between the Coal Company and Verma and Sons is a matter which concerns them and the workers have nothing to do with that agreement. They have a right to claim the same from their original employers who continue to be so except for a brief period from February to August, 1964.

As to the amount due to each worker, I do not think it is safe to rely on the statements filed by Sri Bhagwat Tripathi (W.W.1) Branch President of the Union. These statements according to him were prepared on basis of Form B registers Pay-sheets and Attendance registers which were allowed inspection by the Manager. Earlier to this, he stated that he had noted the attendance and the amount due to each who was member of his Union as and when amount became due and on basis of the same statements were prepared. With this conflicting version and his blowing hot and cold in the same breath, no reliance can be placed on the statements. The amount due can also be determined and recovered by proper applications under Sec. 33-C(2) to the appropriate Labour Court. The right to recover the same is, however, declared by this award to be subsisting.

Decision:

The issues under reference are answered as aforesaid. No order for costs.

(Sd.) G. C. AGARWALA, Presiding Officer.

1-8-1968.

[No. 1/15/64-LR.II.]

New Delhi, the 27th August 1968

S.O. 3044.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the South Bulliaree Kenduadih Colliery of Messrs. East Indian Coal Company Limited Jealgora, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 23rd August, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
(NO. 2) AT DHANBAD**

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 108 OF 1967

In the matter of an industrial dispute under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the South Bulliaree Kenduadih Colliery of Messrs. East Indian Coal Company Limited, Jealgora, Post Office Jealgora, District Dhanbad.

AND

Their workmen.

APPEARANCES:

For the employers: Shri J. N. P. Sahi, Labour Adviser.

For the workmen: Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha.

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, 19th August, 1968/28th Sravana, 1890.

AWARD

The Central Government, being of opinion that an industrial disputes exists between the employers in relation to the South Bulliaree Kenduadih colliery of Messrs. East Indian

Coal Company Limited, Jealgora, Post Office Jealgora, District Dhanbad, and their workmen by its order No. 2/11/66-LRII dated 19th February, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the action of the management in verbally suspending Shri Nanu Mahato, Mining Sirdar, with effect from the 6th September, 1965 to the 14th September, 1965, was justified? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 26 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May 1968. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 108 of 1967. Employers as well as the workmen filed their statements of demands.

3. The case of the workmen is that Shri Manu Mahato (hereinafter referred to as the affected workman) was a mining sirdar in the colliery of the employers, that the management suspended him verbally for 9 days with effect from 6th September, 1965 to 14th September, 1965 without assigning any reason or giving any notice or charge-sheet, that in spite of the affected workman approaching the management more than once for payment of his wages for the illegal suspension period, the management did not consider his request nor did they give any reason for not doing so and that the suspension and withholding of the wages for the suspension period are illegal and unjustified. The employers filed their statement of demands stating that on 5th September, 1965 the affected workman misbehaved with the Manager, that apprehending that a charge-sheet would be issued to him for the misconduct he voluntarily absented himself from 6th September, 1965 to 14th September, 1965, that on 15th September, 1965 he apologised to the Manager and that, as such, the Manager allowed him to join duty. They have emphatically denied that the affected workman was verbally suspended from 6th September, 1965 to 14th September, 1965. They have also taken an objection that the dispute involved in the reference was an individual dispute and not industrial dispute. The workmen were represented by Shri Ram Mitra, Secretary, Bihar Koyla Mazdoor Sabha and the employers by Shri J. N. P. Sahi, Labour Adviser. On behalf of the workmen the affected workman was examined as WW1 and Exts. W1 and W2 were marked. On behalf of the employers the Manager was examined as MW1 and the attendance clerk as MW2. No exhibits were marked for them.

4. The affected workman, WW1 has in his evidence that he was a member of the union (Bihar Koyla Mazdoor Sabha) from 1964 and that he was a member of the union during the period of his suspension. In the cross examination it further elicited that the affected workman was a Secretary of the Branch union at the colliery and that he has a receipt to show that he had paid his subscription to the union, but he had not brought it with him. Shri Sahi has vehemently argued that non-production of the receipt should give rise to the inference that the affected workman was neither a member of the union or its branch Secretary. But I find it difficult to agree with him. Only because he has not produced the receipt it cannot be held that his entire sworn statement in that respect is false. That apart, the failure report of the Regional Labour Commissioner (C) Dhanbad to the Secretary, Government of India, Ministry of Labour & Employment, New Delhi, accompanying the order of reference, clearly shows that the union (Bihar Koyla Mazdoor Sabha) has espoused the cause of the affected workmen through their letter dated 14th December, 1965. Thus, I hold that the dispute involved in the reference is not an individual dispute but it is an industrial dispute.

5. It is admitted by parties that during the material period the affected workman was a mining sirdar in the colliery of the employers and that he was not paid his wages for the period from 6th September, 1965 to 14th September, 1965. According to the workmen the affected workman was suspended verbally during the period, whereas the case of the employers is that he had absented himself voluntarily apprehending that he would be charge-sheeted for his alleged misbehaviour with the Manager on the 5th September, 1965. The very statement of the employers is not convincing. There was nothing to prevent the management from issuing the charge-sheet for the alleged misbehaviour in spite of the affected workman being absent. I do not see any reason how the affected workman thought that by simply absenting himself for 9 days he could avoid the charge-sheet. The best person to sneak about the misbehaviour could be the Manager, who is examined as MW1. He simply says that the affected workman had misbehaved with him and does not say that the misbehaviour was. That apart, Ext. W2 is an admitted document. It is a letter from the affected workman to the Manager dated 8th November, 1965. After complaining that he was suspended from 6th September, 1965 to 14th September, 1965

without explaining any reason, the affected workman had stated in it that he had already brought the matter to the notice of the Manager and nothing was done yet into the matter. The affected workman, WW1 had deposed that on 8th September, 1965 he had addressed a letter, the office copy being Ext. W1 to the Manager. In Ext. W1 also the affected workman had complained that his suspension without charge-sheet was invalid. The management has denied Ext. W1, but there is no explanation why they did not reply to Ext. W2 when it was specifically alleged therein that the matter was brought previously also to the notice of the Manager. In the statement of demands the employers had specifically pleaded that on 15th September, 1965 the affected workman had apologised to the Manager and as such, the Manager allowed the affected workman to resume duty. But the Manager, MW1 has not said a word about the alleged apology. On the other hand he says that the affected workman turned up for work and he allowed him to work and that he did not think much of the misbehaviour or absence from duty of the affected workman. The management must be maintaining attendance registers. No attendance register is brought on record to show that the affected workman had absented himself during the disputed period. MW 2 is the attendance clerk. Apart from saying that the affected workman did not report to duty from 6th September, 1965 to 14th September, 1965 there is not even a suggestion in the evidence of the attendance clerk, MW2 that the affected workman had voluntarily absented himself. The affected workman not reporting to duty from 6th September, 1965 to 14th September, 1965 is an admitted fact and the complaint of the affected workman is that it was owing to verbal suspension during the period. Thus, the evidence of MW 2 does not contradict the case of the affected workman. On this material I find that the affected workman was suspended by the Manager from 6th September, 1965 to 14th September, 1965 verbally without assigning any reason and as such withholding of his wages and other emoluments for the period was illegal and unjustified.

6. I, therefore, hold that the action of the management in verbally suspending the affected workman, Shri Nanu Mahato, mining sirdar with effect from the 6th September, 1965 to the 14th September, 1965 was unjustified and, consequently, he is entitled to his wages and other emoluments for the period as though he was on duty during the period. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,
Central Govt. Industrial Tribunal,
(No. 2) at Dhanbad.
[No. 2/11/66-LRII.]

New Delhi, the 29th August 1968

S.O. 3045.—In pursuance of section 17 of the Industrial Disputes, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the matter of an application under Section 33A of the said Act from Shri Md. Sharieff and 6 others, workmen of Medical Department of Main Hospital of Singareni Collieries Company Limited, Post Officer Kothagudum, which was received by the Central Government on the 27th August, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD.

PRESENT:

Sri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION NO. 167 OF 1968 IN INDUSTRIAL DISPUTE NO. 30 OF 1967

BETWEEN

1. Md. Sharieff.
2. A. Ramdas.
3. Smt. J. Ruth.
4. Smt. Lucy Isreal.
5. Smt. Deevanamma.
6. B. R. Paramanandam.
7. Smt. Padma Paramanandam.

Workmen of Medical Department of Main Hospital of Singareni Collieries Co. Ltd., P.O. Kothagudum—*Complainants.*

AND

Management, Singareni Collieries Co. Ltd., P.O. Kothagudum Collieries—*Opp. Party.*

APPEARANCES:—

Shri S. K. Srinivasan, General Secretary, S. C. Mazdoor Sangh—for the complainants.

Shri M. V. Ramakrishnarao, Asstt. Personnel Officer S. C. Coy., Kothagudum—for the Opp. Party.

AWARD

This application is under section 33A of the Industrial Disputes Act. The seven applicants herein are employees in the Medical Department of the Singareni Collieries at its main Hospital at Kothagudum. By order dated 1st May 1968 the Management had designated applicant Nos. 1 to 5 as Nursing Orderlies in compliance of the recommendations of the latest Wage Board on Coal Industry. Prior to that, these five applicants were bearing the designation of Probationary Nurses. By the above said order Paramanandam, the 6th applicant, was designated as Compounder. Prior to that he was having the designation Male Nurse. And, similarly, the 7th applicant, Padma Paramanandam, was designated as Junior Trained Nurse. Prior to that she had the designation Midwife. At the time the above said order was passed I.D. No. 30/67 was, and is, pending here, the parties to it being the Management of the Singareni Collieries on the one side and its employees on the other. The issue in it is in respect of the demand raised relating to categorisation and wage structure. The applicants are thus concerned with that dispute. The applicants complain that by changing the designations as above said by the order undermention, the Management had effected changes in the conditions of service to their detriment. It is prayed that the former designations should continue to prevail in respect of these seven applicants.

2. The Management filed counter. The case of the Management is that it had merely implemented the recommendations of the Wage Board on Coal Industry, and that it did not in any manner effect change in the conditions of service. It is therefore stated that there is no relief to be granted to any of the applicants in this application under section 33A.

3. I heard Mr. S. K. Srinivasan for the applicants and Mr. M. V. Ramakrishnarao for the Management. Mr. Srinivasan wanted to examine Mr. Paramandam, the 6th applicant, as witness. I told him it was not necessary as the relevant facts are mostly common ground. Applicant Nos. 1 to 5 were appointed as Probationary Nurses in the years 1952 and 1954. The pay scale in that designation was Rs. 45—75. That was under the Mazumdar Award. These five applicants had continued in that designation and the connected pay scale till the order dated 1st May 1968 was passed. The 6th applicant, B. R. Paramanandam, was appointed as Male Nurse in the year 1954 in the pay scale of Rs. 75—134. The 7th applicant, Smt. Padma Paramanandam, was appointed as Midwife in the pay scale of Rs. 60—90. Actually the scales set out above in respect of the seven applicants had come into existence from the year 1956 from which year the recommendations of the Mazumdar Award were implemented. What the Management has now done by order dated 1st May 1968 is to change the designations of the applicants purportedly in conformity with the recommendations of the latest Wage Board. By the above said change in designations, applicant Nos. 1 to 5 are now placed in the grade of Rs. 180—273, applicant No. 6 is placed in the scale of Rs. 205—337 and applicant No. 7 also is placed in the grade of Rs. 205—337. By seeking interpretation of the recommendations of the Wage Board on Coal Industry, the employees claim in I.D. No. 30/67 that there should be revision of wage structure and categorisation. What Mr. Srinivasan would say is that had the designation of the applicants not been changed as done by order dated 1st May 1968, the applicants would have benefited if the implementation was done while retaining the old designations. Whether or not the Management could change the designations would be a matter that would be gone into in the dispute in I.D. No. 30/67. I do not wish to say anything here that may impugn upon the respective stands taken by the parties in that dispute. The issue in the dispute awaits full fledged trial. What I may note for the present for the purpose of the enquiry in this application is that by order dated 1st May 1968 the Management had given to the applicants pay scales that are higher than what obtained prior to that order. It would seem therefore that the emoluments of the applicants are not affected. I say that only for the purpose of the enquiry in this application. For the purpose of this application I would further observe that it does not seem that any conditions of service had been altered in respect of any of these applicants. The final decision would come in the award in I.D. No. 30/67 not only in respect of the class of employees represented by these applicants but also in respect of various other classes of employees. Meanwhile, I hold that any relief need not now be given to any of the applicants in this application under section 33A.

Award passed accordingly.

Given under my hand and the seal of the Tribunal this the 20th day of August, 1968.

(Sd.) M. NAIMUDDIN,
INDUSTRIAL TRIBUNAL,
[No. 7/21/67-LRII.]

S.O. 3046.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Mahabir Colliery, Post Office Raniganj (Burdwan) and their workmen, which was received by the Central Government on the 23rd August, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

REFERENCE No. 76 OF 1967

PARTIES:

Employers in relation to the Management of Mahabir Colliery.

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee—Presiding Officer.

APPEARANCES

On behalf of Employer—Shri Ramawatar Deora

On behalf of Workmen—Shri Robin Chatterjee, Vice-President, Colliery Mazdoor Sabha.

STATE: West Bengal

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/48/67-LR II, dated October 21, 1967, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute to this tribunal for adjudication, namely:—

“Whether the termination of the services of Sarvashri Fatik (alias Sam) Chatterjee and Basudeo with effect from the 11th May, 1967 and the 13th May, 1967 respectively by the management of Mahabir Colliery was justified? If not, to what relief are the workmen entitled?”

2. On October 30, 1967, this tribunal sent notices to the management and the Vice-President of the Colliery Mazdoor Sabha, which had taken up the dispute between the management and the two workmen named above, calling upon them to file their respective written statements. The Mazdoor Sabha was directed to file the written statement on behalf of the workmen within 10 days of receipt of the notice. The employers were directed to file the written statement within 10 days of the receipt of the written statement on behalf of the workmen. Nobody filed any written statement. On November 25, 1967, this tribunal received a petition of settlement jointly signed by the management and the workman Basudeo, in which it was stated that the management and Basudeo had settled the dispute on the following terms:—

(1) Shri Basudeo Prasad will be given all legal dues including Profit Sharing Bonus, 1966/67, Leave Wages, 1966/67, Train Fair, up/down and service compensation etc., in lieu of his resignation.

(2) That Basudeo Prasad will submit his resignation with his own accord. He will have no further claim of service with the company. He has agreed to resign from the post with effect from 20th November 1967. The management have agreed to pay an amount of Rs. 20 only as an *ex-gratia* payment in full and final settlement of his claim.

3. So far as Fatik (alias Sam) Chatterjee was concerned, no term of compromise was entered into with him.

4. On July 23, 1968, a notice was sent to the management and also to the Vice-President of the Colliery Mazdoor Sabha, informing them that August 6, 1968 was fixed for orders on the joint petition. On that date no representative of the management nor any representative of the Mazdoor Sabha attended. There was a telegram received by this tribunal from Shri Robin Chatterjee, Vice-President of the Colliery Mazdoor Sabha informing:

“MYSELF SICK STOP POSTPONE HEARING IN REFERENCE NUMBER SEVENTYSIX OF NINETEEN SIXTY SEVEN PLEASE STOP MANAGEMENT INFORMED TELEGRAPHICALLY.”

Thereupon, the following order was made on that date:—

"Nobody appears either on behalf of the management or the workmen.

To August 14, 1968 for peremptory, date of hearing of the application as also of the Reference. Documents, if any, must be filed before that date. Parties must come ready with their witnesses on that date. No further adjournment will be granted.

Informed parties by registered post."

5. Shri Robin Chatterjee to-day appears on behalf of the Mazdoor Sabha and submits that he has no knowledge about the compromise entered between Basdeo and the management. He further submits that Fatik Chatterjee was away somewhere and he has not been able to establish contact with him. In these circumstances, I called upon Ramawater Deora, appearing on behalf of the management, to prove the settlement. He was examined on oath and proved the settlement to my satisfaction. Shri Robin Chatterjee also cross-examined him on the point of settlement, but in my opinion, he was not shaken in cross-examination. In these circumstances, I hold that the dispute between the management and Basdeo has been settled in terms of the compromise. It appears from Ext. 1 to 6 that Basdeo has also received payments from the management in terms of the compromise.

6. So far as Fatik Chatterjee is concerned, neither he nor the Mazdoor Sabha, which took up his case, filed any written statement. From October, 1967 uptill to-day no step has been taken in this behalf. Shri Robin Chatterjee states that even he has not been able to establish contact with him. Fatik Chatterjee has not also done anything in this regard. In these circumstances, I do not think that any purpose will be served by giving any more time to him.

7. It appears that Fatik is no further interested in this dispute and so far as he is concerned, I pass a "no dispute" award. So far as Basdeo is concerned, the dispute is settled as per compromise.

8. This is my award.

(Sd.) B. N. BANERJEE,
Presiding Officer.

Dated the 14th August, 1968.

[No. 6/48/67-LRII.]

S.O. 3047.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Sial Ghogri Colliery, Post Office Junnordeo, District Chhindwara (Madhya Pradesh) and their workmen, which was received by the Central Government on the 26th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT JABALPUR

Dated August 19th, 1968

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

CASE REF. No. CGIT/LC(R) (44) OF 1968

PARTIES:

Employers in relation to the management of Sial Ghogri Colliery, P.O. Junnordeo,
and

Their workman represented through the General Secretary, Satpura Koyala Khadan Mazdoor Congress, P.O. Junnardeo.

APPEARANCES:

For employers—None

For workman—None.

INDUSTRY: Coal Mine

DISTRICT: Chhindara (M.P.).

AWARD

The Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal by Notification No. 5/7/68-LR-II, dated 17th July, 1968, for adjudication:—

Matter of Dispute

Whether the action of the management of Sial Ghogri Colliery, Post Office Junnardeo, District Chhindwara (Madhya Pradesh) in not allowing Shri Jangoo, Coal Cutter to resume duty in view of the medical certificate dated the 27th April, 1966, issued by the Medical Officer, Coal Mines Welfare Hospital at Jamai, was justified? If not, to what relief is the workman entitled?

Soon after the reference was made, the parties compromised the dispute and a compromise settlement dated 29th June, 1968 was received by this Tribunal, terms of which are reproduced in the annexure. The workman concerned Shri Jangoo seems to have agreed to accept an *ex-gratia* payment of Rs. 200/-. The dispute is thus satisfactorily resolved and an award is recorded in terms of compromise settlement.

(Sd.) G. C. AGARWALA, Presiding Officer.
19-8-68.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT JABALPUR

FORM 'H'

(See Rule 58)

Form for memorandum of settlement

Representing employer:—Shri J. S. Sial, Partner, M/s. Sial Ghogri Colliery Group of Mines, H.O. Nagpore.

Representing Workman:—Shri Ramnarayan Singh, General Secretary, Satpura Koyala Khadan Mazdoor Congress, H.O. Junnardeo (M.P.).

REF. CASE NO. 5/7/68-LR-II, DATED 22ND FEB. 1968.

Reg. Jangoo

Short rectial of the case

The workman Shri Jangoo was suffering from T.B. and he was admitted into the Welfare Hospital Junnardeo for treatment. After his treatment he has been advised light job by the Medical Officer Welfare Hospital Junnardeo, but the Management did not provide him any job. Satpura Koyala Khadan Mazdoor Congress Labour Union H.O. Junnardeo raised an Industrial dispute before the Assistant Labour Commissioner C. Chhindwara which ended in failure, the case has been referred to the Industrial Tribunal-cum-Labour Court at Jabalpur for adjudication.

Terms of Mutual Settlement

It has been agreed by the Management that Shri Jangoo will be paid Rs. 200/- (Rupees Two Hundred) as *Ex-gratia* upto 7th July 1968. As Shri Jangoo himself shown his inability to join his duties due to T.B. and illhealth question of work does not arise.

Signature of parties

For Sial Ghogri Group
Sd./- J. S. SIAL,
Partner,
M/s. Sial Ghogri Colliery
Group of Mines, H.O. Nagpore.
Dated, 29th June, 1968.
Witnesses:
Dated 29th June, 1968.

Sd./- RAMNARAYAN SINGH
General Secretary.
Satpura Koyala Khadan Mazdoor.
Congress, H.O. Junnardeo.

Part of Award

Sd/- G. C. AGARWALA, Presiding Officer.
19-8-68.

[No. 5/7/68-LR-II.]

S.O. 3048.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Surakachhar Colliery of Messrs. National Coal Development Corporation Limited, Post Office Banki Mongra, District Bilaspur and their workmen, which was received by the Central Government on the 19th August, 1968.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

Dated, August 2, 1968

PRESENT:

Shri G. C. Agarwala—*Presiding Officer.*

CASE REF. NO. CGIT/LC(R)(4) OF 1967

PARTIES:

Employers in relation to Surakachhar Colliery of M/s. National Coal Development Corporation Limited, Post Office, Banki Mongra, Distt. Bilaspur.

Vs.

Their workmen represented through, M.P. Colliery Workers' Federation, Korba, Distt. Bilaspur (M.P.)

APPEARANCES:

For employers—Sri S. Chattopadhyaya, Dy. Supt. of Collieries, Surakachhar.

For Workmen—Sri Gulab Gupta, General Secretary, M.P.C.W. Federation.

INDUSTRY: Coal Mine.

DISTRICT: Bilaspur (M.P.)

AWARD

By Notification No. 8/127/66-LR.II dated 7th February 1967, the Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference, to this Tribunal for adjudication:—

Matter of Dispute

Whether the dismissal of Shri G. N. Sarkar, Crane Operator-cum-Mechanic by the management of Surakachhar Colliery of M/s. National Coal Development Corporation Limited with effect from the 6th March, 1966 was justified? If not, to what relief is he entitled?

2. The workman concerned, Sri G. N. Sarkar, was Crane Operator-cum-Mechanic in Surakachhar Colliery before dismissal on 6th March, 1966. He had been transferred from Korba Colliery after the special Crane had been obtained there. He had been placed in Category IX of the Mining Award by the management but it appears that Sri Sarkar had been pressing for the mechanic grade in the Excavation Grade. The charge for which he had been dismissed was that on 19th May, 1965 at about 3-30 P.M. he was attempting to have a fuel drum of diesel oil which he had got issued from the stores earlier, pilfered and removed from the fenced yard where the Crane was standing. The story was that he had fixed up with a Contractor's truck which was brought near the fencing and Sri Sarkar with the help of two labourers working under him, Sukriti Das and Permanand, was found getting the drum of diesel loaded in the truck in his presence. This was, however, detected by a chowkidar, Data Ram, who came running and demanded a gate pass. The store Issuer Sri M. P. Patel, also arrived there and when the attempt was foiled the truck driver on questioning Sri Sarkar whether he should go and Sri Sarkar replying in affirmative, left without the drum. The drum was rolled back to the cement shed godown in the yard by Sri Patel with the help of labourers.

3. Sri Data Ram gave a report of the incident (Ex. E/9) on 20th May 1965. It was, however, scribed by Sri Patel who forwarded it to the Senior Store Keeper and then Sri Sarkar was charge-sheeted. It will be material to reproduce the charge-sheet which runs as follows:—

Chargesheet

It is alleged that at about 3-30 P.M. on 19th May 1965 you pilfered a full drum of diesel oil and tried to hand it over to the driver of the truck No. MPL-2745 belonging to Shri Darshan Singh, a contractor of this Colliery. This truck

was standing by the north side fencing of our railway store yard. You were being helped by two other persons working with you. When this was noticed the Chowkidar challenged you for producing the necessary gate pass, but you failed to do so. Later, Store Issuer Shri Patel went and stopped you handing over the diesel unauthorisedly to the contractor-driver.

On the morning of 19th May, 1965 you informed Shri M. E. Methew, Assistant Engineer (E&M) and the Senior Store Keeper that there was no stock of diesel oil at the siding to undertake Crane loading of material on the truck of Banki Colliery. Later, when a search was made it was found that you kept one full and another half drum of diesel oil hidden inside a shed at the store yard.

So, you are hereby charged under Colliery Standing Orders 18(i)(a) for theft, fraud and dishonesty in connection with employer's business and property and 18(i)(b) for taking illegal gratification from the contractor to hand over employer's property to the contractor for your own interest.

You are hereby directed to submit a written explanation within three days' or the receipt of this charge-sheet as to why you should not be dismissed from the services of the Corporation for your dishonesty.

You are to state clearly in your reply whether you like to be heard in person.

If no reply is received within the said period the case will be decided *ex-parte*."

It may be mentioned that for the second charge that on false representation he obtained 1-1/2 drums of diesel and had hidden the same inside a shed, there was no evidence produced either in the domestic enquiry or before this Tribunal and may be ignored. Sri Sarkar submitted an explanation which was considered unsatisfactory and an Enquiry Committee was constituted by the management comprising of two Officers S/Sri H. K. L. Joi's as Chairman, and M. Singh, as member. An enquiry was held on 16th, 17th & 18th June, 1965 and then a finding was recorded by the Enquiry Committee on 13th January, 1966 that charges had been proved against Sri G. N. Sarkar as a result of which he was dismissed by the management.

5. His case was taken up by the Union, M.P.C.W. Federation of which he is a Member Executive of the branch. It appears that there was a good deal of correspondence between the Union and the management and the matter was discussed at the joint negotiation committee as the proceedings dated 2nd April, 1966 (Ext. W/14A) would indicate. The management at one stage was agreeable to hold a fresh enquiry but the Union imposed certain conditions which were not acceptable to the management and therefore the proposal did not fructify. In conciliation also there was an agreement reached to refer the matter to the arbitration of Sri S. P. Mathur, Dy. Superintendent of Collieries, Banki, under the Code of Discipline which also could not materialise. There was also a suggestion subsequently to submit the dispute to the arbitration of the then Regional Labour Commissioner, Sri D. Panda, which also fell through. The conciliation having failed resulted in this reference.

6. The stand taken by the Union is that because Sri Sarkar was a prominent member of M.P. Colliery Workers' Federation branch and had been clamouring for the proper grade, he has been victimised. It is alleged that he was not at all attempting to steal and pilfer away the diesel drum but some one else was doing it. The enquiry was not a bonafide one and did not conform to principles of natural justice. The management while denying the allegation of victimisation maintained that a proper enquiry had been held and the charge was found proved. It was further alleged that there was a proper arbitration agreement and the reference was invalid. The Government was not competent to make a reference. It was also alleged that the workman had settled his claim and there was no industrial dispute left on the basis of which the Government could make a reference. On merits it was maintained that Sri Sarkar had been caught red handed while attempting to pilfer away the diesel drum. On these pleas, the following additional issues were framed for determination:—

Additional Issues

1. Whether there was a subsisting arbitration agreement under Section 10-A I.D. Act and the reference is invalid in law. Was there no industrial dispute empowering the Government to make a reference?
2. Has the workman concerned settled his claim and there is no industrial dispute left to be adjudicated?
3. Whether there was held a *bonafide* fair and proper domestic enquiry conforming to rules of natural justice?

4. Was the workman concerned guilty of the charges for which he had been punished?
5. Was he victimised in the matter of punishment?

Findings:—

Issue No. 1.—The plea is rather ill conceived. The arbitration agreement (Ex. E/13) was not an arbitration agreement under Sec. 10-A of I.D. Act, but as stated in the agreement itself it was under para 11(4) of the Code of Discipline. Sri S. P. Mathur, Dy. Superintendent of Collieries, was nominated as Arbitrator who waited for a reference from the Central Government hoping that he would be a statutory Arbitrator which was not the case. When the period of two months had expired, he intimated by letter Ex. E/14 dated 4th September, 1966 that he could not arbitrate any further. Thereafter there was a proposal for nomination of another arbitrator and Sri D. Panda, was actually suggested but this also did not materialise. It is unnecessary to go into this aspect of the matter as there was no agreement under Sec. 10-A I.D. Act. The reference, therefore, is not at all invalid. There was evidently an industrial dispute empowering the Government to make the reference.

Issue No. 2.—There is no evidence that Sri Sarkar had settled his claim with a view to close the dispute. He might have received his dues during conciliation proceedings but that does not estop him from pursuing the same. The rule of estoppel and acquiescence as such has no application in industrial adjudication.

Issue No. 3.—The enquiry stands vitiated for two obvious flaws. The first is that the Enquiry Officer commenced the enquiry with not only an examination of the charge-sheeted workman but indulged in a thorough and searching cross-examination from the very beginning. The record of enquiry proceedings (Ex. E/1E) shows that the cross-examination covered 3-1/2 pages and ran into numerous questions. The Enquiry Officer himself in his evidence admitted the examination as cross-examination of the charge-sheeted workman. It appears that he has had no idea how such a domestic enquiry should be conducted. Without calling any management witnesses to prove the charge, he wanted Sri Sarkar to establish his innocence and enquired from him if he had brought any witnesses. He admitted in his cross-examination that on the strength of documents made available to him by the management he went on putting question to Sri Sarkar in cross-examination. Not only this, he admitted that he imported personal knowledge of the fact that Sri Sarkar had taken diesel on 17th, 18th and 19th and therefore he put questions to him on this aspect of the matter also. He also admitted that when Sri Sarkar replied that he did not want to give any further statement beyond what is given in his explanation he started cross-examining Sri Sarkar. He further stated that Sri Sarkar had not brought any witness and if had brought he would have taken witnesses of Sri Sarkar first before asking the management to produce witnesses. Obviously he was labouring under the impression that it was for Sri Sarkar to give his innocence. He did not examine Sri Sarkar after management's witnesses had been recorded. Sri Sarkar even applied that since irrelevant matters had been introduced in the evidence he would like to make a statement. This was not permitted but he was informed that although the enquiry had been closed he may give his objections in writing. This procedure of the enquiry goes to the very root of the basic requirement of natural justice. As observed by the Hon'ble Supreme Court in Associated Cement Company case reported in 1963(2) LLJ p. 396, in domestic enquiries the first step should be to lead the evidence in support of the charge so as to give the person charged an opportunity to cross-examine the witnesses who speak against him and it is only when this has been done that the workman should be questioned about what has been deposed against him. It is not fair that at the very commencement of the enquiry the workman charged be closely cross-examined before any evidence is led against him. This precisely has happened in this case.

The second vital defect in the enquiry is the report of the Enquiry Committee. It is a brief cryptic document and runs as follows:—

Findings of the Enquiry Committee:—

"Held vide letter No. SRK/DR/C-Sheet/8452 dated the June 1965 to enquire into the charges against Shri G. N. Sircar, Crane Operator.

On 19th May, 1965 a report was made that an attempt was made to remove a full drum of Diesel Oil from the Store premises of siding by Shri G. N. Sircar & others. The person concerned was charge-sheeted & an enquiry was conducted spreading over some days to investigate into charges. Full opportunity was given to the accused person to bring his witnesses etc. and to introduce any documents in support of his defence. We have gone through the enquiry proceedings and are convinced that the accused Shri G. N. Sircar with the help

of Shri Permanand and Shri Sukrit Das—General Mazdoors did make an attempt to remove a drum of Diesel Oil. They went to the extent of arranging a private truck to remove the drum. For want of authority over the private truck the owners could not be called. Their attempt was foiled by the timely detection of our Chowkidar and other staff. The charge against Shri G. N. Sircar is proved beyond doubt. Though he was not handling the drum physically, his was the hand behind all the episode. The private truck driver who came to lift the drum asked Shri G. N. Sircar and nobody else if he should go away when the whole thing had misfired, conclusively proves the point. We the members of the enquiry Committee recommend deterrent punishment."

From the above finding it would appear that no reference has been made to the evidence and the finding is a general one saying that the Enquiry Committee were convinced that the workman was guilty. It is manifest that they did not apply their mind to the evidence. At held by the Hon'ble Supreme Court in *Khardah & Co., Ltd. Vs. Its Workmen* reported in 1963 (2) LLJ p. 452 as also in *Northern Dooars Tea Company Ltd. Vs. Workmen of Dem Dima Tea Estate*, reported in 1964 (1) LLJ p. 436 industrial adjudication attaches importance to domestic enquiries and the conclusion reached by the Enquiry Officer which necessarily postulates that the enquiry report should contain conclusions with reasons for such conclusion. It is the duty of the Enquiry Officer "to record clearly and precisely his conclusions for reaching those conclusions. Unless such a course is adopted it would be difficult for the industrial tribunal to decide whether or not the approach by the Enquiry Officer was basically erroneous or his conclusions were perverse. If a proper finding is not recorded by the Enquiry Officer, it is a serious infirmity in the domestic enquiry. Any order passed on that basis is an empty formality." The enquiry, therefore, stands vitiated.

Issue No. 4.—The management produced evidence to prove the charge of attempted theft of the diesel drum and have succeeded in doing so. Three witnesses were examined to prove the charge. They were the Chowkidar, Sri Dataram (E.W.1), who detected the attempt to steal a diesel drum, Sri E. P. Patel the Store Issuer (E.W. 2) and Sri Mani Ram (E.W.3) also an eye witness and who helped in rolling back the drum to the store godown. The evidence of witnesses is consistent. From their evidence it is clear that a Contractor's truck had been brought near the fencing and the drum had been rolled out. It is further clear that Sri Sarkar was supervising the operation of the drum being loaded by two labourers Sukriti Das and Permanand. When questioned by Sri Patel, Sri Sircar and the labourers gave no explanation and remained quiet. Further the fact that the truck driver took away the truck after seeking permission of Sri Sarkar is a clear indication that the pilfering was being done at his instance. There was no enmity between Sri Sarkar and Sri Patel or as a matter of fact with Sri Dataram and Sri Mani Ram. They had no reason to falsely implicate Sri Sarkar in this serious charge. Sri Patel had stated that on that very date at about 1 p.m. he received an office order by which it had been enjoined that diesel would not be issued in drums but would be put in vehicle under the supervision of store staff and shall be kept under lock and key. Before that it was not so kept and as admitted by Sri Sarkar himself, it used to be issued in drums from the main store. Obviously this order hastened the attempt on the part of Sri Sarkar for the drum to be pilfered. The story given by Sri Sarkar and his witness Sri Sukriti Das that they were not aware of the attempt and came to know of it only when there was hubbub. They stated that they came to the scene and found the drum lying outside but inside the fencing. There was no truck and the drum was rolled back to the small cement shed godown in the yard. The insinuation was that Sri Patel or some other person had taken out the drum there. This is wholly an after thought story. It was not given either in the explanation (Ex. W/6) where the facts were only denied nor was stated by Sri Sarkar before the domestic enquiry. Sri Sukriti Das is evidently a false witness inasmuch as he stated that the incident took place at 10.00 or 11.00 a.m. while admittedly it had taken place at about 3 or 3.30 p.m. He was an accomplice in the attempted removal of the diesel drum. Actually he and the other labourers were also charge-sheeted but the management did not proceed further against them and proceeded with the enquiry against the main hero viz., Sri Sarkar. The fact that although a report was lodged in police yet no action was taken is of little consequence. Police ordinarily would not intervene in such a case of an attempt only. Nor the fact that the truck driver was not examined either in enquiry or before this Tribunal can be of any avail. Having been a party to the attempt, it is futile to expect that the driver would have come in evidence. The first part of the charge about the attempted theft of diesel drum has been proved beyond doubt against Sri Sarkar and he has been rightly punished.

Issue No. 5.—There is no substance in the plea of victimisation. Even if he was a Member Executive of the Union branch and had been clamouring for a proper grade that does absolve him from the consequence of misconduct which is established against him.

Decision:

The result is that the management was fully justified in dismissing Sri G. N. Sarkar. He is not entitled to any relief. No order for costs.

(Sd.) G. C. AGARWALA,
Presiding Officer.
2-8-1968.

[No.8/127/66-LRII.]

New Delhi, the 30th August 1968

S.O. 3049.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Ghorawari and Hirdagarh Collieries, Post Office Junnordeo, District Chhindwara (Madhya Pradesh) and their workmen, which was received by the Central Government on the 27th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT JABALPUR

Dated August 20, 1968

PRESENT:

Sri G. C. Agarwala.—Presiding Officer.

CASE REF. NO. CGIT/LC(R)(27) OF 1968

PARTIES:

Employers in relation to Ghorawari & Hirdagarh Colliery, P.O. Junnordeo.

AND

Their workman represented through the General Secretary, M.P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), P.O. Chandametta.

APPEARANCES:

For employers.—(1) Shri R. J. Trivedi, Agent of the Colliery.

(2) Shri R. Y. Sirpurkar, Advocate.

For workman.—None.

INDUSTRY: Coal Mine.

DISTRICT: Chhindwara (M.P.).

AWARD

The Ministry of Labour, Employment & Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference to this Tribunal by Notification No. 5/4/68-LRII, dated 13th March, 1968, for adjudication:—

Matter of Dispute

Whether the management of the Ghorawari and Hirdagarh Collieries, Post Office Junnordeo, District Chhindwara (Madhya Pradesh) was justified in dismissing Shri Sheodhar, Writer, from the 1st May, 1967? If not, to what relief is he entitled?

The employers filed a written statement on 22nd April, 1968. In this, the employers alleged that the workman concerned had been charge-sheeted in respect of an incident dated 12th November, 1966 wherein he had filthily abused and misbehaved with the Colliery Doctor, Dr. S. A. Mande. A proper domestic enquiry was thereafter held on authorisation of the Manager by one Shri R. P. Verma who after recording evidence of witnesses and in which the workman fully participated and was represented through Union Vice President, submitted a report to the Manager finding the workman guilty of the charge. The Manager sought the approval of the Agent and then passed the order of dismissal. Meanwhile another complaint was received by the Manager from Underground mine workers about the indiscipline and misbehaviour of the workman Shri Sheodhar, the Writer. This was dated 18th November, 1966. Sheodhar was charge-sheeted by the Manager on 22nd November, 1966. A separate enquiry was held by same Enquiry Officer, Shri R. P. Verma on 16th March, 1967 in which Shri Sheodhar fully participated and was represented by Branch President of the Union. For this charge-sheet also the Enquiry Officer who was duly authorised by the Manager to conduct the

enquiry found Shri Sheodhar guilty. On both these charge-sheets after obtaining approval of the Agent the Manager dismissed Shri Sheodhar by the combined order dated 1st May, 1967 mentioned above.

The Union filed a written statement on 23rd May, 1968 and made appearance in the hearing rendered on 4th June, 1968. The Union was directed to file a rejoinder to the allegation of the employers that the dismissal order was based on two charge-sheets. No rejoinder was filed by the Union. As a matter of fact, the Union absented on two consecutive date of hearings, namely on 5th August, 1968 and again on this date of hearing. The proceedings therefore were conducted *ex-parte* under Rule 22 of the Industrial Dispute Central Rules as if the Union had duly attended and was represented.

The only objection raised in the written statement of the Union against the first enquiry was that the Enquiry Officer was merely a Senior Clerk, a subordinate employee, and was therefore not competent to bear upon an independent judgment. Such an objection was neither raised during the enquiries nor even in conciliation proceeding. In case the workman or his representative felt aggrieved, the management might have changed the Enquiry Officer on representation or objection by or on behalf of the workman. The objection therefore has no force.

The records of both the enquiries have been filed and are proved by the affidavit of the Enquiry Officer. The findings are supported by evidence. There is no substance in the plea of victimization.

Decision

The management was justified in dismissing Shri Sheodhar Tub Writer with effect from 1st May, 1967 and he is not entitled to any relief. No order for costs.

(Sd.) G. C. AGARWALA,

Presiding Officer.

20-8-1968.

[No. 5/4/68-LRII.]

S.O. 3050.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of Messrs New Standard Coal Company (Private) Limited, 85/86 Stephen House, 4, Dalhousie Square East, Calcutta-1 and Messrs Madhavji K. Verma and Sons (Private) Limited C/O Bastacolla Colliery, Post Office Dhanesar, District Dhanbad (the present lessee) on the one part and their workmen on the other part, which was received by the Central Government on the 27th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Delhi, the 19th August, 1968

PRESENT:

Sri G. C. Agarwal.—*Presiding Officer.*

CASE REF. NO. CGIT/LC(R)(39) OF 1967 (JABALPUR TRIBUNAL)

CASE REFERENCE NO. 86 OF 1964 (DHANBAD TRIBUNAL)

PARTIES:

Employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of M/s. New Standard Coal Company (P) Limited, 85/86, Stephen House, 4, Dalhousie Square East, Calcutta-1, and M/s. Madhavji K. Verma and Sons (P) Ltd., New Standard Lodna Colliery, Post Office Jharia, District Dhanbad (the lessee) of the one part.

AND

Their workmen on the other part represented through Khan Mazdoor Congress, P.O. Jharia, Distt. Dhanbad (Bihar).

APPEARANCES:

For employers.—1. Sri D. Narsingh, Advocate, for New Standard Coal Co. (P) Limited and Special Officer, Sri K. C. Mukerji.

2. Sri M. P. Baliase for M/s. Madhavji K. Verma & Sons (P) Ltd.

For workmen—Sri Prasant Burman, Secretary, Khan Mazdoor Congress, Gandhi Road, Dhanbad.

INDUSTRY: Coal Mine

DISTRICT: Dhanbad (Bihar)

AWARD

By Notification No. 2/54/64-LRII dated 24th July, 1964, the Ministry of Labour and Employment, Government of India, referred the following matter of dispute as stated in the schedule to the order of reference, to Dhanbad Tribunal for adjudication and from where it was transferred to this Tribunal vide Government Notification No. 8/25/67 LRII dated 25th April, 1967:—

Matter of Dispute

(1) Whether the management of New Standard Lodna Colliery is justified in refusing employment to the following workmen, namely:—

1. Dhania Mahato—Office peon.
2. Golapi Kardo—Office peon.
3. Nitayanand Roy—Night Guard.
4. Satva Kinkar Roy—W. Engine Driver.
5. Biren Roy—W. Engine Driver.
6. Siba Mahato—Banks Man.
7. Darasan Mahato—Banks Man.
8. Narsingh Mahanthi—Banks Man.
9. Nandulal Goswami—P. Khalasi.
10. Banshi Mukherjee—P. Khalasi.
11. Nathuni Saw—P. Khalasi.
12. Fowdari Mian—Line Mistry.

(2) If not, to what relief are all or any of workmen entitled?

2. It is necessary to give some history in the background of which this dispute has been referred. M/s. New Standard Coal Company (P) Ltd., to be hereinafter called the Coal Company, is the owner of the New Standard Lodna Colliery to be hereinafter described as Colliery. The affairs of the Colliery were rather in an unsatisfactory state and there were disputes among Directors. The raising in the colliery was, closed by an order of the Regional Inspector of Mines under Section 22 of the Mines Act on or about 29th June, 1963. Protective and maintenance operations, however, seem to have continued. On an application made by some of the shareholders of the Coal Company to the Hon'ble High Court, Calcutta, one Sri K. C. Mukerji, Bar-at-Law, was appointed as Special Officer on 3rd October, 1963. The Special Officer was authorised to take protective measures and to call a meeting of shareholders so as to ascertain their views for necessary steps to be taken for raising funds for payment of wages to workers and dues to Government. He was authorised to negotiate to lease out the Colliery for certain period. One Sri C. M. Verma was appointed as a Caretaker who on behalf of the Special Officer carried on the maintenance operations. On his nomination and offer for lease of the Colliery M/s. Madhavji K. Verma and Sons (P) Ltd., with which Sri C. M. Verma was associated an agreement for lease was executed on 11th February, 1964 with the approval of the High Court, Calcutta, and M/s. Verma and Sons were placed in possession of the Colliery. The imposition of prohibitory order under Section 22 of the Mines Act at the instance of M/s. Verma and Sons was lifted first from Seam 13B and later on from Seam 10. It may be mentioned that M/s. Verma and Sons lost formal possession of the Colliery from 25th August, 1964 on an application to the Hon'ble High Court and no formal lease was executed. The Special Officer, however, was authorised to run the Colliery with the help of Sri C. M. Verma and now during the pendency of the reference, one Sri Pradij Basu, one of the Directors of the Company, has been appointed as Agent of the Colliery. In other words, the Company continues to be the employers for workers in the Colliery.

3. The dispute in the case about these 12 concerned workmen was raised in December, 1963 by the Union, Khan Mazdoor Congress, on the allegations that these workers who had been retained for maintenance and safety work had been stopped from working with effect from 10th December, 1963 by the Caretaker, Sri Verma and new persons in their places had been appointed. The conciliation failure report shows that there were a number of conciliation sittings in which representative of Sri C. M. Verma, the Caretaker and subsequently on behalf of M/s. Madhavji K. Verma and Sons participated. Para 4 of the conciliation report shows that on 19th December, 1963 management's representative had agreed to provide work to the 16 workers with effect from 23rd December, 1963 and about whom the complaint had been made by the Union. It is contended that the 12 concerned workmen are covered by those 16 in respect of whom the management had agreed to provide work with effect from 23rd December, 1963. Subsequent developments in conciliation reveal that the management represented by M/s. Verma and Sons later on resiled from the undertaking given with the result that the Conciliation Officer submitted a failure report to the Government in June, 1964 and which resulted in this reference on 24th July, 1964 when M/s. Madhavji K. Verma and Sons (P) Ltd., were admittedly in possession of the Colliery as proposed lessee.

4. The Union filed the statement of claim before the Dhanbad Tribunal. On behalf of the Coal Company the Special Officer filed a written statement and so did Sri C. M. Verma for M/s. Madhavji K. Verma and Sons. A preliminary objection was taken that since the Hon'ble High Court of Calcutta was seized with the matter and the Special Officer had been appointed the proceedings could not be continued. This objection was overruled in the hearing rendered on 23rd December, 1967 by this Tribunal. It was held that the Special Officer was appointed under Section 402 of the Companies Act by way of an interim arrangement only and as there had been no winding up order Section 446 of the Companies Act was not at all attracted. The employers were thereafter required to file written statement on merits. The Special Officer filed a written statement for himself and the Company on 15th February, 1968. Apart from reiterating the past history how he came in possession and how the Colliery was being run under orders and directions of the High Court, Calcutta, little was said about merits of the dispute and as a matter of fact ignorance was pleaded about the claim of the workers. M/s. Madhavji K. Verma and Sons did not file any written statement until 9th July, 1968. In this statement M/s. Verma and Sons disputed that the workers concerned were old employees. It was further pleaded that relevant attendance registers were not made available to them and therefore it could not be verified that the workers were really old workers and had continued to work till the alleged date, the 9th December, 1963.

5. When the hearing on merits was commenced on 9th May, 1968 at Dhanbad the Union was directed to obtain affidavits of the concerned workmen showing the length of their service, the date from which they were denied employment and the wages drawn by each. Copies of such affidavits were directed to be sent to both the sets of employers, namely the Coal Company and M/s. Verma and Sons. The Union succeeded in procuring affidavits of only six workers. They are Golapi Kando (Sl. No. 2), Siba Mahato (Sl. No. 6), Darasan Mahato (Sl. No. 7), Narsingh Mahanthi (Sl. No. 8), Banshi Mukherjee (Sl. No. 10) and Nathuni Saw (Sl. No. 11). They were all tendered for cross-examination, on the adjourned date which was 12th August, 1968. As a matter of fact, Siba Mahato (Sl. No. 6) over and above his affidavit was also examined on facts and then was cross-examined on behalf of the Company and the Special Officer by Sri D. Narsingh, Advocate M/s. Verma and Sons absented on the last date of hearing and the proceedings had to be conducted *ex-parte* against them. It may be mentioned that the Union continued its case in respect of only those for whom affidavits could be procured and have been stated above. It did not press the claim for the remaining six. Actually out of these Sl. No. 1, Dhana Mahato, is dead as intimated on behalf of the Company and was not challenged by the Union. The Coal Company also contended that Sl. No. 8, Narsingh Mahanthi, and Sl. No. 12, Powdari Mian, are covered by another Ref. No. 47/67 of this Tribunal. There is, however, no proof about the fact. Serial No. 8, Narsingh Mahanthi, even appeared and tendered himself for cross-examination but no question was put to him on the subject. All these six who filed affidavits and tendered themselves for cross-examination have sworn that they continued to work up to 9th December, 1963 even after raising was closed in June 1963 by operation of Section 22 of the Mines Act. To Nathuni Saw and Banshi Mukherjee (Sl. Nos. 11 and 10) it was suggested that they were domestic servants, a suggestion which was stoutly denied. The fact had not been pleaded by the Company in the written statement. To Golapi Kando, Siba Mahato, Darasan Mahato, and Narsingh Mahanthi (Sl. Nos. 2, 6, 7, and 8) it was suggested that they themselves had stopped coming and working, a suggestion which was denied by them. It cannot be believed for a moment that they themselves would have stopped coming. In any case the fact had not been pleaded in the written statement and no serious notice can be taken of the suggestion.

6. The conciliation failure report shows that representative the Caretaker, Sri Verma, and later on M/s. Madhavji K. Verma and Sons had given assurances in the beginning that the workmen about whom Khan Mazdoor Congress had complained would be given employment with effect from 23rd December, 1964 and again assured to give employment on 24th December, 1964, but later on they changed their stand on one ground or the other and ultimately refused to provide employment. The conciliation failure report paragraphs 24, 25 and 26 would show that the Conciliation Officer had procured necessary registers and had verified the fact that the workers were old employees. Even so, they were denied employment. Evidently, these workers who had not been affected by stoppage of the raising and had continued to remain in employment till the Caretaker, Sri C. M. Verma, took over in December, 1963 and stopped them from work with effect from 10th December, 1963. The workers got no redress from the new management and are entitled to be reinstated with back wages.

7. On behalf of the Special Officer and the Coal Company, it has been urged that the Coal Company was not in the management on 10th December, 1963 and is not liable for his claim. This contention has no force. The Caretaker, Sri C. M. Verma, was acting in behalf of the Company and the Special Officer by way of an interim arrangement. The Company would be bound by his acts of commission and omission. As a matter of

fact, the conciliation failure report would show that the representative of the Special Officer had even directed the workers not to obey the order of Sri Verma, the Caretaker if dismissed and had even asked Sri Verma not to dismiss any worker without his permission. It follows that the Special Officer was incharge and in management of the Colliery. Till February, 1964 the Coal Company through the Special Officer was in management and M/s. Madhavji K. Verma and Sons came only in 1964. They both are liable to pay the dues of the workers for the period of their unemployment. It is, however, unnecessary to apportion the liability between these two in the present proceedings.

8. It was again urged on behalf of the Company that there was no demand and no industrial dispute was raised against the Coal Company by the Union and therefore this Tribunal has no jurisdiction. Reliance is placed on a recent case of the Hon'ble Supreme Court in *Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal, Gujarat* and others reported in 1968 (1) LLJ p. 834. The conciliation failure report shows that there had been a demand against the management which virtually was of the Company through the Caretaker. It is wrong to say that there was no demand made. The case of *Sindhu Resettlement* is clearly distinguishable.

Decisions

The result is that out of all the 12 workmen covered under Issue No. 1, 6 workmen, namely Golapi Kando (Sl. No. 2), Siba Mahato (Sl. No. 6), Darasan Mahato (Sl. No. 7), Narsingh Mahanthi (Sl. No. 8), Banshi Mukherjee (Sl. No. 10) and Nathuni Saw (Sl. No. 11) were unjustifiably refused employment by the management. They are entitled to be reinstated with back wages and attendant benefits. The issues under reference are answered accordingly. The Union shall further be entitled to Rs. 100/- as costs from the management.

(Sd.) G. C. AGARWALA,
Presiding Officer.
19-8-1968.
[No. 2/54/64-LRII.]

New Delhi, the 31st August 1968

S.O. 3051.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2, Dhanbad, in the industrial dispute between the employers in relation to the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowra, District Dhanbad and their workmen, which was received by the Central Government on the 23rd August, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 153 OF 1967

In the matter of an industrial dispute under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowra, District Dhanbad

AND

Their workmen.

APPEARANCES:

For the employers—Shri K. C. Nandoolyar, Deputy Chief Personnel Officer.

For the workmen:—Shri B. P. Tripathi, Organising Secretary, Khan Mazdoor Congress.

STATE: Bihar

INDUSTRY: Coal

Dhanbad, 19th August, 1968
28th Sravana, 1890 (Saka).

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowra, District Dhanbad and their workmen, by its order

No. 2/65/66-LR-II, dated 28th June, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below.

"1. Whether Shri Sadhu Gope, Miner, was not allowed to work with effect from the 17th January, 1966, by the management of the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries, Limited?

2. If so, to what relief is the aforesaid workman entitled for the period from the 17th January, 1966 upto the 23rd March, 1966, during which he remained out of employment?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 104 of 1966 on its file. Workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25,57-LR-II dated 31st May, 1967 under Section 33 B of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 153 of 1967. Employers filed their statement of demands.

3. Shri B. P. Tripathi, Organising Secretary, Khan Mazdoor Congress representing the workman as well as Shri K. C. Nandkeolyar, Deputy Chief Personnel Officer representing the employers have made a statement that the solitary affected workman Shri Sadhu Gope has since expired. As such, no more dispute is left for enquiry and the reference has become infructuous. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO,
Presiding Officer.

Central Government Industrial Tribunal, No. 2 Dhanbad.

[No. 2/65/66/LR-II.]

S.O. 3052.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the North Chirimiri Colliery, Post Office Chirimiri, District Surguja (Madhya Pradesh) and their workmen, which was received by the Central Government on the 19th August, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR.

Dated August 3, 1968

PRESENT:

Shri G. C. Agarwala—*Presiding Officer.*

CASE REF. NO. CGIT/LC(R)(24) OF 1966 (JABALPUR TRIBUNAL)

CASE REFERENCE NO. CGIT-31 OF 1966 (BOMBAY TRIBUNAL)

PARTIES:

Employers in relation to the North Chirimiri Colliery, Post Office, Chirimiri, District Surguja (M.P.).

Vs.

Their workman represented through the M.P. Colliery Workers' Federation, Jabalpur.

APPEARANCES:

For employers:—S/Shri K. C. Nandkeolyar, Deputy Chief Personnel Officer, Jitendra Kumar, Manager.

For workmen:—Sri Gulab Gupta, Advocate and General Secretary of the Federation.

INDUSTRY: Coal Mine

DISTRICT: Surguja (M.P.).

AWARD

By Notification No. 5/17/66-LR-II, dated 14th June, 1966, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order

of reference to Bombay Central Industrial Tribunal, for adjudication wherefrom the case was subsequently transferred to this Tribunal vide Notification No. 8/141/66-LR-II, dated 17th September, 1966:—

Matter of Dispute

Whether the dismissal from service of Shri Gyan Chand Sharma with effect from the 19th July, 1965 was justified? If not what relief is the workman entitled?

2. Both sides filed written statements before the Bombay Tribunal. After proceedings were transferred to this Tribunal on the first hearing rendered on 27th October, 1966 certain additional issues were framed. The evidence in the case commenced on 6th December, 1966. During evidence the management intended to introduce a question that Sri Gyan Chand Sharma, the workman concerned, was not a workman inasmuch as he was discharging duties of managerial nature and is therefore excluded by the definition of "workman" under Sec. 2(s) of I.D. Act. After hearing arguments the management was not permitted to introduce this point. On the prayer of the management time was granted to file a writ petition before the Hon'ble High Court. Proceedings remained stayed under orders of the High Court from 7th January, 1967 till reopened on 15th January, 1968. As directed by the Hon'ble High Court the management was permitted to amend their pleadings so as to take up the specific plea that Sri Gyan Chand Sharma was not a workman. Both parties were allowed to produce evidence on the question and then the evidence was concluded on 29th July, 1968. Arguments were thereafter heard which were concluded on 1st August, 1968.

3. M/s. K. C. Thappar and Company are the Managing Agents of a number of collieries including the United Collieries Ltd. The North Chirimiri Colliery is one of the units of United Collieries and so is another colliery in Bihar, named as Central Sounda Colliery. There was a serious strike and work stoppage in this North Chirimiri Colliery from July, 1964 to February, 1965 which was sponsored by the Union, M.P.G. Workers' Federation. An agreement was reached between the management and the Union at Calcutta on 23rd February, 1965 and the strike was lifted. Sri Gyan Chand Sharma, Underground Incharge in the North Chirimiri Colliery, has been there for about 18 years and in the service of the Company for nearly 30 years. He was transferred by an order dated 10th February, 1965 (Ex. W/3) to Central Sounda Colliery in the same capacity. The transfer order was handed over to Sri Sharma on 24th February, 1965. He sent a representation to the Managing Agents on 5th March, 1965 (Copy Ex. W/5) pleading that the transfer should be cancelled. On his representation to the Manager that his children were studying in schools, he was allowed to stay on till 31st March and was finally relieved on 1st April, 1965. He, however, disobeyed the order and did not join at Central Sounda Colliery. He made various representations to the Manager and on his behalf by the Union to the management including the Director. The management did not change the order and when he defied the transfer order, after explanation was taken, he was charge-sheeted by means of charge-sheet dated 4th June, 1965 (Ex. E/ID). The charge against him was (i) for wilful insubordination and disobeying the orders of the management (2) continuous absence without permission and without satisfactory cause since 1st April, 1965. One Sri D. D. Diddlee, Agent, Kamotee Colliery, was first appointed as Enquiry Officer but later on one Sri Balkrishna Lath, Chief Personnel Officer, Bhokra, was appointed as the Enquiry Officer. He conducted the enquiry on 28th June, 1965 in which Sri Sharma fully participated and was assisted by the Union Secretary, Sri Simbhu Nath Singh. The Manager, Sri B. L. Acharjee, and one Sri Krishna Gopal Tangri (E.V.1) General Supervisor represented the management. After the conclusion of the enquiry, the Enquiry Officer submitted a finding (Ex. F/1) on the basis of which the management dismissed Sri Sharma. When the Union, M.P. Colliery Workers Federation (M.P.C.W.F.) which had been championing the cause of Sri Sharma since the time of his transfer failed to get the transfer order cancelled moved the conciliation machinery and which in due course has resulted in this reference.

4. Briefly stated, the Union has challenged the transfer which culminated in the termination of service, firstly on the ground that the transfer order was passed under Service Rules of Karamchand Thappar and Company by the Managing Agents. The Service Rules were not applicable to Sri Sharma as there were Certified Standing Orders applicable to this Colliery. The transfer order was invalid for this reason and Sri Sharma could have disobeyed it. Further it was contended that the order was passed on behalf of Managing Agents who had no authority to transfer. Further it was pressed that the transfer order was mala fide with a view to victimise him as he was an active worker of the Union and the management had a suspicion that Sri Sharma had a hand in the strike. On that ground also transfer was not justified and having been mala fide, Sri Sharma could disobey it. The enquiry was also challenged on the ground that it was not bona fide. It was alleged that the Enquiry Officer was subordinate to the Manager and that he cross-examined Sri Sharma and admitted

several documents and letters in the enquiry which were not shown to Sri Sharma. It was further alleged that there was no report of the Enquiry Officer and it seems to have been made up subsequently as it was not produced during conciliation.

5. The management denied the plea of *mala fides* and victimisation. It was stated that Sri Sharma was a trusted employee of the management and during the strike which was on the question of re-railing and derauling of the derailed tubs, he had helped the management as a loyal employee. He was transferred to Central Sounda Colliery because the General Supervisor, one Sri Charan Singh in Central Sounda Colliery, had died and a senior trusted person was required there. Consequently, the Colliery Administration Department of the management at the Head Office transferred him to meet the requirements and for administrative reasons and not with a view to harrass him. Further it was stated that Sri Gyan Chand Sharma was running a cloth shop at his house allotted by the Company and had acquired vested interest. The management had a right of transfer both under the Service Rules and the Certified Standing Orders and Sri Sharma had deliberately disobeyed the same. A *bona fide* departmental enquiry was held conforming to all the principles of natural justice by a competent officer and was thereafter dismissed by the management. The competency of the Union to take up the dispute was also challenged on the ground that Sri Sharma was not a member of the Union at the relevant time and that there could be no industrial dispute so as to confer jurisdiction to this Tribunal inasmuch as Sri Sharma was not a workman. With these pleas of the parties, the following additional issues framed on 27th October, 1966 may now be considered:—

Addl. Issues

1. (a) Whether the workman concerned Shri Gyan Chand Sharma was a member of the Union at the relevant time?
- (b) Was he discharging managerial duties and was not a workman as defined by Section 2(s)?
2. Whether the transfer order was a valid one?
3. Whether the transfer was *mala fide* with a view to victimise him and was calculated to be an unfair labour practice?
4. Whether the enquiry offended against the principles of natural justice and was it a legal and valid one?

Findings:—

Issue No. 1(a).—The plea taken by the management in this respect is rather flimsy. There is abundant material to show that Sri Gyan Chand Sharma was a member of the Union before he was dismissed. Counterfoil receipt books as also Membership register have been filed. There are two Counterfoil receipts No. 14588 and another No. 24497 which record the payment of yearly subscription from 1st October, 1964 to 30th September, 1966. There is also corresponding entry in the membership register. The management criticised and pointed out various defects and incongruities in the membership register and submitted a note in respect thereof. It may be that the register has many short comings and has not been properly maintained or the loopholes are so glaring that no reliance should be placed on the register or on the counterfoil receipts. Even if the evidence furnished by these is rejected as fabricated, there would still be sufficient material to show that he was a member of the Union before he was dismissed. On his behalf, Sri Gulab Gupta as General Secretary of the Union took up the matter with higher authorities contending that he was being transferred because of his association with the Union and the displeasure of the then Manager, Sri Acharjee. Ex. W/11 is a copy of letter dated 12th April, 1965 addressed to Sri Dharam Vir Dhir, Director. Then there are a number of communications which were exchanged between Sri Gulab Gupta on one hand and Sri B. L. Acharjee, Manager, as also with the Director, Sri Dharam Vir Dhir, which clearly prove that the Union had been championing the cause of Sri Sharma at all levels (*vide* Ex. W/11, W/18, W/19, W/20, and W/22 to W/27). The Union would not have interested itself for a stranger and if he had not been a member of the Union. The very assertion of his association with the Union is a proof positive that Sri Sharma was a member of the Union. Even in the domestic enquiry he was represented by Sri Simbhu Nath Singh, Secretary, who furnished proof of membership. There is therefore no substance in this objection.

It may be mentioned that on behalf of the Union, it was contended that by reason of the amendment in the definition of industrial dispute under Sec. 2A of the I.D. Act, the proof of membership of the Union becomes immaterial. The point, however, does not arise for consideration as Sri Sharma had been a member of the Union at the relevant time, namely, when the cause of action arose and the dispute was raised, as also at the time of the reference. The Union was competent to raise a dispute.

Issue No. 1(b).—The plea that Sri Sharma was not a “workman” which the management was permitted to raise under directions of the Hon’ble High Court, is again a flimsy one. In the additional written statement dated 24th January, 1964 by paragraph 1A the plea was stated in following terms:—

“Shri Gyan Chand Sharma was an employee whose functions were mainly supervisory. He exercised functions mainly of a managerial nature. He sometimes functioned as Manager. By nature of the duties attached to his post and by reason of the powers vested in him, his acts were of a managerial nature. His service conditions were governed by the Service Rules of Messrs. Karamchand Thapar & Brothers (Private) Ltd.”

From the above it is clear that in the very first sentence the management admitted that he was employed mainly in supervisory capacity. He admittedly was an Underground Incharge and neither was Manager nor an Assistant Under a Manager. He could not conceivably have been discharging functions of managerial nature, much less mainly of a managerial nature. The management by examining two witnesses S/Sri Tulsī Ram Shukla (E.W. 2) and Mohd. Ali (E.W. 3) attempted to introduce the evidence that Sri Sharma used to grant leave and passed orders in the absence of the Manager. Sri Sharma undoubtedly in the absence of Manager or Assistant Manager had been authorised to work as is evident from authorisations Ex. E/6 to E/10 which are authorisations issued in the month of November and December, 1963 and one of January, 1954. This was admitted by Sri Sharma himself. He, however, stated that so long there was no Assistant Manager he discharged some managerial functions but these were completely withdrawn by an order of the Manager dated 5th December, 1964 (Ex. W/32). After that he worked only casually in the absence of Manager on specific authorisations. There is no merit in the plea. Sri Sharma was, therefore, a workman and the dispute was an industrial dispute.

Issue No. 2.—It has been vehemently alleged on behalf of Sri Sharma that the transfer order was invalid from the very inception having been passed under the Service Rules which were not applicable. It is no doubt true that Service Rules of Karamchand Thapar & Brothers (P) Ltd. ceased to apply after the Certified Standing Orders came in force. The Certified Standing Orders would supercede the Service Rules which may have been applicable initially to Sri Sharma and other employees before the Standing Orders. The Certified Standing Orders have statutory force as held by the recent Full Bench case of the Allahabad High Court, S. P. Srivastava vs. Banaras Electric Light & Power Company reported in 1968 (16) F.L.R. p. 386. The question however is not whether the order was passed under the Service Rules or the Certified Standing Orders. It was a transfer order in which the employers, the management of the Colliery, had requisite power. The transfer order Ex. E-1/S, dated 10/11th February, 1965 does not state that the power was being exercised under the Service Rules. The fact that it was signed by the General Secretary of the Managing Agents is of little consequence. After all M/s. Karamchand Thapar & Brothers were the Managing Agents and the order was passed for the Managing Agents of the United Collieries Ltd. as stated in the order itself. Sri Sharma at no stage challenged the validity of the transfer order and in fact had accepted the same. Even the charge-sheet on the basis of which Sri Sharma has been punished Ex. E/1D dated 4th June, 1965 also makes no mention of the Service Rules and reproduces misconduct which are also covered by the Standing Orders. The order of dismissal (Ex. W/12) also does not state that the power was being exercised under the Service Rules. It merely states that the charges levelled against him were proved. In the long series of correspondence which took place between the workman and on his behalf by the Union also, with different authorities of the management at no stage was it alleged, that management had no power of transfer. As a matter of fact, it had been taken for granted that the management had such a power. All that was alleged was that it was *mala fide*. The reported case of this very management Modhuband Colliery vs. Their workmen reported in 1966 (1) LLJ p. 738 the Hon’ble Supreme Court held that the Service Rules of Karamchand Thapar & Brothers were applicable as the Certified Standing Orders came in force subsequently. The crux of the question is whether the management had the necessary powers, be it under the Service Rules or the Certified Standing Orders. The fact that the management erroneously thought that it had powers under the Service Rules will be of no consequence if the said powers also existed under the Standing Orders. It was a perfectly valid transfer order to which the workman himself and the Union submitted.

Issue No. 3.—There is no substance in the plea of *mala fides* and victimisation. Sri Sharma had been transferred by the Head Office by an order dated 10/11th February, 1965 before the settlement was reached with the Union on the strike question which took place on 23rd February, 1965. Ex. E/14 is a communication from Sri B. L. Acharjee, the then Manager dated 20th January, 1965 addressed to the office of the Colliery department at Calcutta in which he mentioned that the intended transfer of Sri Sharma to Central Sounda Colliery be postponed because of the continued strike. Ex. E/15 is an order of Incharge Colliery department dated 9th February, 1965 wherein it is specifically

stated that since the service of an Incharge was required the management had decided to transfer Sri G. C. Sharma to Central Sounda Colliery and instructions were given to issue transfer order, by reason of which the transfer order Ex. E/16 was issued. This was confirmed by the Director, Sri Dharam Vir Dhir, himself in his communication to Sri Gulab Gupta, dated 14th August, 1965 (Ex. W/24) and was not refuted by the Union. The suggestion that Sri Sharma had incurred the displeasure of the then Manager, Sri Acharjee, is unfounded. The Manager, as a matter of fact, obtained the postponement of the transfer and on representation of Sri Sharma himself first postponed the enforcement of the transfer order and gave him leave in the beginning and then allowed him to stay till 31st March on his own responsibility (Ex. W/9). It has been urged on behalf of the Union that the Director himself by his letters dated 30th December, 1963 and 2nd November, 1964 had treated him as a trusted employee an expectation which was not fulfilled by reason of this strike and these sentiments were further expressed after the transfer order by the Director, Sri I. M. Thapar, in his communication dated 29th March, 1965 (Ex. W/8) on the representation of Sri Sharma himself. Instead of showing *mala fides*, these are proof of *bona fides*. The fact that the then Manager in one of his communications (Ex. W/20) dated 17th July, 1965 to Sri Gulab Gupta had stated that the behaviour of Sri G. C. Sharma was far from satisfactory and he had misguided workers, is an impression which he naturally developed after he deliberately defied the transfer order. A finding of *mala fides* cannot be easily recorded when there are enough material to show that the management exercised the power on justifiable grounds [*vide* Bareilly Electric Supply Co. vs. Serajuddin (Supreme Court), 1960 (1) LLJ p. 556]. It is pertinent to note that in one of the communications by Sri Gulab Gupta himself (Ex. W/11) which was the first addressed by him as an appeal to the Director, Sri Dharam Vir Dhir, he clearly stated that Sri G. C. Sharma had been running a cloth shop in the Colliery and had to recover a sum of Rs. 20,000 from the colliery workers and nearby places. The fact that an employee had been running a shop by itself would have been a sufficient justification for the management to transfer Sri Sharma, without any other ground. The chief ground, however, was that a senior man was required at Central Sounda Colliery and therefore Sri Sharma was transferred. The fact that he was running a shop also might have weighed in the minds of the management in turning down the request and appeals made by the workman and the Union to cancel the order of transfer. There was, therefore, no *mala fides* and no motive of victimisation in the order of transfer.

Issue No. 4.—Sri Sharma deliberately disobeyed the order of transfer which was an admitted position. That being so, there was even no necessity to hold an enquiry. An enquiry was, however, held and in which Sri Sharma fully participated. There is no defect in the enquiry. The Enquiry Officer is no more in the service of the management. He was the Chief Personnel Officer and was not subordinate to the Manager. The record of the enquiry proceedings would reveal that the Manager was the first witness examined and he produced the original papers. Sri Sharma extensively cross-examined him. It was thereafter that Sri Sharma examined himself and produced two witnesses also. One was a school teacher to show the dates of examination of his children and another was Sri Simbhu Nath Singh, Secretary of the Union. The finding was properly recorded and there is no perversity when the fact was admitted. The only attempt made by Sri Sharma in the enquiry was that his transfer order should have been postponed. He made preposterous claims for dues which according to management were not due to him and also for T.A. advance of Rs. 500 before complying with the transfer order. He was told by the Manager that there were no dues and he could claim if anything was due after complying with the order of transfer. The workman has to face the consequences of his own deliberate act. Even if the transfer was unjustified it could have been considered only after he had submitted to it and joined at Central Sounda Colliery. He could then have represented and the Union also could have raised the dispute. To defy the order of transfer deliberately was an ill conceived step which Sri Sharma had chosen evidently because he was running a cloth shop thereby acquiring vested interest and he was not prepared to go to Central Sounda Colliery at any cost. He is, therefore, to suffer the consequences and he was rightly dismissed.

Decision:

The management was perfectly justified in dismissing Sri Gyan Chand Sharma from service with effect from 19th July, 1965. He is not entitled to any relief. No order for costs.

(Sd.) G. C. AGARWALA,

Residing Officer.

3rd August, 1968.

3-8-68.

[No. 5/17/66-LR-II.]

ORDERS

New Delhi, the 30th July 1968

S.O. 3053.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Sibir Colliery of M/s. Lodna Coal Company (1920) Post Office Kalibahari, District Bardwan and their workmen in respect of the matter specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now Therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta constituted under section 7A of the said Act.

SCHEDULE

Whether the management was justified in terminating the services of Shri Jhariram Rewani Timber Mazdoor, Sibir Colliery with effect from the 15th January, 1968. If not, to what relief is the employee entitled ?

[No. 6/40/68-LR. II.]

New Delhi, the 2nd August 1968

S.O. 3054.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkharkee, District Dhanbad and their Managing Agents Messrs Karamchand Thapar and Brothers (Private) Limited, Central Office, Bhowra, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed:

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal (No. 2), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office, Nudkharkee, District Dhanbad and their Managing Agents, Messrs Karamchand Thapar and Brothers (Private) Limited, Central Office, Bhowra, District Dhanbad in refusing employment to Shri Idris Mian, Timber Mazdoor with effect from the 30th June, 1967 was justified? If not, to what relief is the workman entitled?

[No. 2/71/68-LR.II.]

New Delhi, the 5th August 1968

S.O. 3055.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Kankanee Colliery of M/s. Karam Chand Thapar Private Limited, P.O. Bansjora (District Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, (No. 2) Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of the Kankanee colliery of M/s. Karam Chand Thapar Private Limited, P.O. Bansjora, District Dhanbad in dismissing Shri Ishaq Mian, Haulage Khalasi from service with effect from the 27th February, 1968 was justified? If not, to what relief is the workman entitled?

[No. 2/104/68-I.R.II.]

S.O. 3056.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Gondudih Colliery of Messrs Central Alkusa Colliery Company, Post Office Kusunda, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Dhanbad, (No. 3), constituted under section 7A of the said Act.

SCHEDULE

Whether the management of the Gondudih Colliery of Messrs Central Alkusa Colliery Company, Post Office Kusunda, District Dhanbad is justified in not permitting Shri M. N. Sarkar to continue to work in his original employment as Overman Incharge? If not, to what relief is the workman entitled?

[No. 2/105/68-LR.II.]

S.O. 3057.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kankanee Colliery of Messrs Karam Chand Thapar and Brothers (Private) Limited, Post Office Bansjora, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, (No. 3), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Kankanee Colliery of Messrs Karam Chand Thapar and Brothers (Private) Limited, Post Office Bhowra, District Dhanbad, was justified in terminating the services of the following five workmen with effect from the 31st March, 1968, without paying any compensation due in view of their long service? If not, to what relief are these workmen entitled?

1. Shri Somara Chamar, W.E. Khalasi.
2. Shri Jugal Pramanic, Weigh Bridge Peon.
3. Shri Khirodhar Barhee, Mining Sirdar.
4. Shri G. C. Banerjee, Overman.
5. Shri Deo Narain Panday, Store Peon.

[No. 2/110/68-LR.II.]

S.O. 3058.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the South Golukdih Colliery, Post Office Jharia, District Dhanbad, and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Dhanbad (No. 3), constituted under section 7A of the said Act.

SCHEDULE

Whether the management of South Golukdih Colliery, Post Office Jharia (Dhanbad) is justified in stopping Sri Inderma Singh from work with effect from the 21st October, 1967? If not, to what relief is the workman entitled?

[No. 2/92/68-LR.II.]

S.O. 3059.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the H'rakun Colliery, Post Office, Neturia, District Purulia and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government consider it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Hirakun Colliery, Post Office Neturia, District Purulia was justified in dismissing the following five workmen with effect from the 11th May, 1968? If not, to what relief are these workmen entitled?

1. Shri Dugai Majhi, Miner.
2. Shri Mongal Majhi, Miner.
3. Shri Makar Jajhi, Miner.
4. Shri Meghu Bauri, Trammer.
5. Shri Babulal Bauri, Trammer.

[No. 6/63/68/LR-II.]

New Delhi, the 7th August 1968

S.O. 3060.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the New Sudamadih Colliery, Post Office Patherdih (Dhanbad), and their workmen in respect of the matters specified in the Schedule hereto annexed.

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad (No. 3), constituted under section 7A of the said Act.

SCHEDULE

Whether the management of the New Sudamadih Colliery was justified in retrenching its workman Shri M. M. Sahay, Register Keeper with effect from the 10th April, 1968? If not, to what relief is the workman entitled?

[No. 2/99/68-I.III.]

New Delhi, the 8th August 1968

S.O. 3061.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Coal Mining Industry and their workmen;

And whereas the Central Government considers it desirable to refer certain matters connected with or relevant to the said dispute to a Court of Inquiry;

Now, therefore, in exercise of the powers conferred by section 6 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a Court of Inquiry with Shri Binayak Nath Banerjee Presiding Officer, Central Government Industrial Tribunal, Calcutta, as the Sole Member and refers to it, under clause (b) of sub-section (1) of section 10 of the said Act, the matters specified in the schedule hereto annexed.

THE SCHEDULE

1. To review the implementation of the recommendations of the first Court of Inquiry set up in 1960 under notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2684, dated the 31st October, 1960, published in the Gazette of India Part II, Section 3, sub-section (ii) dated the 5th November, 1960, and in particular to consider—
 - (i) Whether managing and raising-cum-selling contracts should be abolished or not, and
 - (ii) What steps should be taken for the progressive abolition of the contract system in the 7 categories which were exempted in the bipartite settlement dated the 30th October, 1961.

[No. 8/33/68-LR.II.]

S.O. 3062.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the P. D. Kajora Colliery, Post Office Kajogram (Burdwan), and their workmen in respect of the matters specified in the schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of P. D. Kajora Colliery, Post Office Kajogram, District Burdwan was justified in stopping the work of Sri Ram Autar Kahar, underground trammer with effect from the 9th April 1968? If not to what relief is he entitled?

[No. 6/62/68/LR-II.]

New Delhi, the 9th August 1968

S.O. 3063.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Gidi 'C' Colliery of National Coal Development Corporation Limited, Post Office Gidi and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal No. 3, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Gidi 'C' Colliery, National Coal Development Corporation Limited, Post Office Religara was justified in dismissing Sri Durjodhan Singh, Electrical Helper, Gidi 'C' Colliery vide their letter No. Gidi-C/Fatal Accident-66/3566, dated the 12th July, 1967. If not, to what relief Sri Durjodhan Singh is entitled?

[No. 2/85/67-LR-II.]

New Delhi, the 20th August 1968

S.O. 3064.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the South Tisra Colliery, Post Office Khas Jeenagora, District Dhanbad (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3), Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of the South Tisra Colliery, Post Office Khas Jeenagora, District Dhanbad in dismissing its workman Shri Nakul Mahato, Fitter, Mistry, with effect from the 10th March, 1968 was justified? If not, to what relief is the workman entitled?

[No. 2/134/68-LR.II.]

S.O. 3065.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Katras Choited'h Colliery of Messrs Bird and Company Limited, Post Office Katrasgarh (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Katras Choitodih Colliery of Messrs Bird and Company Limited, Post Office Katrasgarh (Dhanbad) was justified in dismissing Shri Rajpat Singh, Clerk Grade-III with effect from the 12th March, 1968? If not, to what relief is the workman entitled?

[No. 2/78/68-LR.II.]

S.O. 3066.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs Equitable Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Messrs Equitable Coal Company Limited, Dishergarh Head Office were justified in discharging Shri W. A. Walford, from service with effect from the 1st February, 1968? If not, to what relief is the workman entitled?

[No. 6/37/68-LR-II.]

New Delhi, the 24th August 1968

S.O. 3067.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Bhadra Colliery, Post Office Kotma, District Shahdol (Madhya Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Whether the demand of the Colliery Mazdoor Union, Bhadra Colliery, for payment of higher category, wages to Shri Nathu, Son of Ghuran, than the present wages in Category V is justified? If so, to what relief is the workman entitled, and from what date?

[No. 5/33/67-LR.II.]

New Delhi, the 26th August 1968

S.O. 3068.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of West Barkuhi Colliery of Shri J. A. Trivedi Brothers, Civil Lines, Chhindwara (Madhya Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of West Barkuhi Colliery, Post Office Chandametta, District Chhindwara (Madhya Pradesh) was justified in dismissing their workman, Shri Mohammad Jamal, Coal Cutter, with effect from the 30th December, 1967? If not, to what relief is the workman entitled?

[No. 5/36/68-LRII.]

New Delhi, the 27th August 1968

S.O. 3069.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the East Chora Colliery No. 10 Pit of Messrs East Chora Colliery Company Limited, Post Office Bahula, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of East Chora Colliery No. 10 Pits, 1 and 2 Inclines of Messrs East Chora Colliery Company Limited, Post Office Bahula, District Burdwan in terminating the services of Shri Kanai Lal Banerjee, Electrician with effect from the 2nd August, 1967 was justified? If not, to what relief is the workman concerned entitled?

[No. 6/49/68-LRII.]

New Delhi, the 28th August 1968

S.O. 3070.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudium Collieries (Andhra Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Mohammad Najmuddin, as Presiding Officer with headquarters at Afzal Lodge, Tilak Road, Ramkote, Hyderabad-I, and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Whether the action of the management of Singareni Collieries Company Limited, Kothagudium in terminating the services of Shri Gulam Mohammad Soli, Welder Main Workshop with effect from the 14th December, 1967 was justified? If not, to what relief the workman is entitled?

[No. 7/3/68-LRII.]

CORRIGENDA

New Delhi, the 28th August 1968

S.O. 3071.—In the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2117 dated the 7th June, 1968, published at page 3007 of the Gazette of India, Part II, Section 3, sub-section (ii) dated the 15th June, 1968.

In line three of the preamble and line two of the Schedule omit the word "Limited" appearing after "Ballarpur Collieries Company".

[No. 3/8/68-LRII.]

S.O. 3072.—In the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 797 dated the 20th February 1968, published at page 1264 of the Gazette of India, Part II, Section 3, Sub-Section (iii), dated the 2nd March, 1968.

In line three of the preamble and line two of the Schedule for "District Chanda (Madhya Pradesh)" read "Tahsil and District Chandrapur (Maharashtra)".

[No. 3/1/68-LR-II.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 22nd August 1968

S.O. 3073.—The following draft of a scheme further to amend the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 21st September, 1968.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Calcutta Unregistered Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In clause 6-A of the Calcutta Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, after item (c), the following item shall be inserted, namely:—

“(d) keeping and maintaining, from time to time, a list of dock workers and removing from the list the name of a dock worker either at his own request or in accordance with the provisions of this Scheme.”

[No. 61/2/68-Fac. II.]

New Delhi, the 23rd August 1968

S.O. 3074.—In exercise of the powers conferred by sub-sections (3) and (4) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby appoints the following persons as members of the Cochin Dock Labour Board, and nominates Shri K. P. K. Menon as Chairman thereof, namely:—

Members representing the Central Government:

- (1) Shri K. P. K. Menon, Chairman, Cochin Port Trust, Cochin.
- (2) The Deputy Chairman, Cochin Dock Labour Board, Cochin.
- (3) The Deputy Labour Commissioner, Ernakulam.
- (4) The Assistant Labour Commissioner (Central), Cochin.

Members representing the Dock Workers:

- | | | |
|----------------------------|---|--|
| (1) Shri G. S. Dhara Singh | } | Representatives of the Cochin Port Thozhilali Union. |
| (2) Shri K. M. Pareed | | |
| (3) Shri A. A. Kochunny | } | Representatives of the Cochin Thuramugha Thozhilali Union. |
| (4) Shri M. K. Raghavan | | |

Members representing the employers of dock workers and shipping companies:

- (1) Shri W. H. D'Cruz, } Representatives of the United Stevedores' Association of
- (2) Shri K. G. Bhagat } Cochin (Private) Limited.
- (3) Shri Ratanshi Panchan, Representative of the India National Steamship Owners' Association.
- (4) Shri T. Koshy, Representative of the Overseas Shipping Interests.

[No. 55/2/67/Fac. II.]

S.O. 3075.—In exercise of the powers conferred by sub-section (3) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby appoints the Regional Director (Food), Calcutta as a member of the Calcutta Dock Labour Board *vice* the Principal Office, Mercantile Marine Department, Calcutta, and makes the following amendment in the notification of the Government of India in

the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1322 dated the 7th April, 1967, namely:—

In the said notification, under the heading "*Members representing the Central Government*", for the entry relating to item (5), the following entry shall be substituted, namely:—

"(5). The Regional Director (Food), Calcutta".

[No. 63/15/67/Fac.II.]

S.O. 3076.—The following draft of a scheme further to amend the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 17th September, 1968.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Calcutta Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In sub-clauses (2) and (3) of clause 44 of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 (hereinafter referred to as the said Scheme), for the words "Personnel Officer" wherever they occur, the words "Labour Officer" shall be substituted.

3. In clause 45 of the said Scheme.....

(i) in sub-clauses (2), (3), (4) and (5), for the words "Personnel Officer" wherever they occur, the words "Labour Officer", shall be substituted.

(ii) in sub-clause (8), for the Table, the following Table shall be substituted, namely:—

"TABLE

| Authority empowered to take action | Power given under | Authority empowered to take action in specified cases |
|------------------------------------|-------------------|---|
| I | 2 | 3 |
| 1. Labour Officer | Clauses 44 and 45 | Administrative Body |
| 2. Personnel Officer | Clause 45 | Deputy Chairman or Chairman |
| 3. Deputy Chairman | Clause 45 | Chairman." |

4. In clause 48 of the said Scheme, in sub-clause (1) for the Table, the following Table shall be substituted, namely:—

"TABLE

| Authority passing order | Order made under | Appellate Authority |
|---------------------------------------|------------------|----------------------|
| (1) | (2) | (3) |
| Labour Officer or Administrative Body | Clause 44 or 45 | Deputy Chairman |
| Deputy Chairman | Clause 45 | Chairman |
| Chairman | Clause 45 | Central Government." |

[No. 628/45/66/Fac. II]

New Delhi, the 30th August 1968

S.O. 3077.—The following draft of a scheme further to amend the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 20th September, 1968.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Mormugao Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In Clause 11 of the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965, after item (e), the following item shall be inserted, namely:—

"(f) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy five rupees per month."

[No. 65/10/68/Fac.II.]

S.O. 3078.—The following draft of a scheme further to amend the Cochin Dock Workers (Regulation of Employment) Scheme, 1959, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th September, 1968.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Cochin Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In clause 10 of the Cochin Dock Workers (Regulation of Employment) Scheme, 1959, after item (e), the following item shall be inserted, namely:—

"(f) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy five rupees per month."

[No. 65/10/68-Fac.II.]

S.O. 3079.—The following draft of a scheme further to amend the Madras Dock Workers (Regulation of Employment) Scheme, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 19th September, 1968.

Any objections or suggestions which may be received from any person with respect of the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Madras Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In Clause 10 of the Madras Dock Workers (Regulation of Employment) Scheme, 1956, after item (e), the following item shall be inserted, namely:—

"(f) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy five rupees per month."

[No. 65/10/68/Fac.II.]

S.O. 3080.—The following draft of a scheme further to amend the Vizagapatam Dock Workers (Regulation of Employment) Scheme, 1959, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th September, 1968.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Vizagapatam Dock Workers (Regulation of Employment) Amendment Scheme, 1968.

2. In Clause 10 of the Vizagapatam Dock Workers (Regulation of Employment) Scheme, 1959, after item (e), the following item shall be inserted, namely:—

“(f) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy five rupees per month.”

[No. 65/10/68/Fac.II.]

ORDERS

New Delhi, the 27th July 1968

S. O. 3081.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs. Shantilal Khushaldas and Brothers, Vasco-da-gama and their workmen in respect of the matters specified in the Schedule hereto annexed,

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

SCHEDULE

Whether the following demands of the office staff engaged in the stevedoring-cum-shipping work of Messrs. Shantilal Khushaldas and Brothers, Vasco-da-gama are justified? If so, to what relief are they entitled, and from what date?

- (i) The existing scales of pay should be revised.
- (ii) Dearness allowance and Interim Relief should be paid as per the recommendations of the Central Wage Board for Port and Dock Workers.
- (iii) The Staff should be paid House Rent Allowance.
- (iv) The Staff should be granted National Holidays and Port Trust Holidays as enjoyed by the staff of the Port.
- (v) The Staff should be granted 30 day's privilege leave, which should be allowed to accumulate upto 90 days, 20 days sick leave and 12 days casual leave per year.
- (vi) The Staff and their families should be entitled to free medical attention.
- (vii) Bonus should be paid as per the Payment of Bonus Act, 1965.
- (viii) A scheme of gratuity should be introduced by which every employee who has put in 5 years of service should be paid 15 days wages per year and those who have put in 10 years and 15 years' service should be paid 20 day's and 30 day's wages respectively as gratuity.
- (ix) The Staff should be paid overtime at double the ordinary rates particularly Drivers and Peons, for duty beyond 8 hours.

[No. 29(5)/68-LR. III.]

S. O. 3082.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs. Lima Leitao and Company, Limited, Goa and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under Section 7A of the said Act.

SCHEDULE

Whether the following demands raised by Goa Dock Labour Union, Goa on behalf of the employees of Messrs. Lima Leitao and Company Limited, Goa are justified? If so, to what relief are they entitled?

- (1) Reduction of working hours from 12 hours to 8 hours per day and payment of Over-time for extra work from the date of raising the dispute i. e., 16-11-1967.
- (2) Issuing of appointment letters.
- (3) Fixation of pay of Tindals and Drivers in the scale of Rs. 200-10-300-EB-15-450 and that of Khalasis in the scale of Rs. 125-7-50-200-10-300 or other appropriate scales.
- (4) Payment of Dearness Allowance and Interim Relief as per recommendations of the Central Wage Board for Port and Dock Workers.
- (5) Grant of (i) privilege leave at the rate of 30 days per annum to be accumulated upto 90 days (ii) Sick Leave at the rate of 15 days per annum to be accumulated upto 45 days (iii) casual leave at the rate of 10 days per annum.
- (6) Free medical facilities.
- (7) Grant of bonus at the rate of 4% for the year 1966-67.
- (8) Supply of 2 sets of uniforms per year.

[No. 28(138)/67-LR III.]

S.O. 3083.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs. P. Tiruvengada Mudaliar, Stevedores, Madras and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri M. Tajammal Husain shall be the Presiding Officer, with headquarters at Madras and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the twelve monthly paid employees named below of Messrs. P. Tiruvengada Mudaliar, Stevedores, Madras-1, are entitled to an increase in their dearness allowance as recommended by the Central Wage Board for Port and Dock Workers at the major Ports, from time to time, with effect from the 1st October, 1964? If so, what would be the specific amounts and the dates from which each worker will be entitled?

"Names of the employees;

1. Shri C. Ranga Rao
2. „ L. Rajaram
3. „ M. Kumaraswamy
4. „ M. Jayavelu
5. „ V. Subramaniam
6. „ R. Kannan
7. „ C. D. Anandakrishnan
8. „ T. V. Natarajan
9. „ K. Harikrishnan
10. „ P. V. Kothandapani
11. „ T. Selvaraj
12. „ S. Kugan."

[No. 29 (24)/68-LR III.]

S. O. 3084.—Whereas the Central Government is of opinion that an industrial dispute exists or is between the employers specified in Schedule I hereto annexed and their workmen in respect of the matters specified in the Schedule II hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

SCHEDULE I

- 1 M/s. V. M. Salgaocar & Bros Pvt. Ltd. Vasco-da-gama.
- 2 M/s. V. S. Dempo & Co. Pvt. Ltd. Panjim.
- 3 M/s. J. H. Carvalho, Vasco-da-Gama.
- 4 M/s. Joao Vincent Fernandes, Vasco-da-gama.
- 5 M/s. Narendra N. Kamat, Vasco-da-gama.
- 6 M/s. General Superintendence Co. (India) Ltd. Vasco.
- 7 M/s. Superintendence Company of India Ltd., Vasco.
- 8 M/s. Italab (Goa) Pvt. Ltd. Margao-Goa.
- 9 M/s. Therapeutical Chemical Research Corpn. Margao.
- 10 M/s. Essen & Co. Behind Cloth Bazar Margao.

SCHEDULE II

Whether the demand of the sampling workers for a weekly off with wages is justified. If not, to what relief are they entitled

[No. 29(11)/68-LR.III.]

New Delhi, the 30th August 1968

S.O. 3085.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs Java Bengal Line, Calcutta and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad constituted under section 7A of the said Act.

SCHEDULE

Whether the following demands of the Delivery Clerks employed by Messrs. Java Bengal Line, Calcutta, are justified? If so, at what rate and in what manner?

- (1) Grant of pay scale of Rs. 325—15—425—20—625.
- (2) Dearness Allowance.
- (3) Provident Fund.
- (4) Privilege Leave, sick leave, casual leave.
- (5) Tiffin allowance.
- (6) Conveyance allowance.
- (7) Interim relief as recommended by the Central Wage Board for Port and Dock Workers.
- (8) Overtime allowance.
- (9) Gratuity.

[No. 28(61)/68-LR.III.]

CORRIGENDUM

New Delhi, the 30th July 1968

S. O. 3086.—In the order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 3306, dated the 15th October, 1965, published in the Gazette of India, Part II, Section 3, Sub-section(ii), at page 3492,—
in lines 3 and 12 for “Company”, read “Company Private Limited”.

[No. 28 (90)/65-LRIV.]

C. RAMDAS, Under Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 21st August 1968

S.O. 3087.—In pursuance of sub-section (1), read with sub-section (4), of section 8 of the Personal Injuries (Compensation Insurance) Act, 1963 (37 of 1963), the Central Government hereby makes the following Scheme further to amend the Personal Injuries (Compensation Insurance) Scheme, 1968, namely:—

1. This Scheme may be called the Personal Injuries (Compensation Insurance) Amendment Scheme, 1968.
2. In clause 6 of the Personal Injuries (Compensation Insurance) Scheme, 1965, in sub-clause (2), after the words “of the employer”, the words “or as the equivalent of all advance payments of premium already made by him” shall be added.

[No. 3/29/68-Spl. Fac.II.]

N. N. CHATTERJEE, Joint Secy.

(Department of Labour & Employment)

ORDER

New Delhi, the 21st August 1968

S.O. 3088.—Whereas the Central Government is of opinion that an industrial dispute exists between the management of the Oil and Natural Gas Commission, Dchradun and their workmen in respect of the matters specified in the Schedule hereto annexed; And whereas the said dispute involves a question of national importance and that the dispute is also of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute;

And whereas the Central Government is of opinion that the dispute should be adjudicated by a National Tribunal;

Now, therefore, in exercise of the powers conferred by section 7B, and sub-section (1A) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a National Industrial Tribunal at Dhanbad of which Shri Kamla Sahai shall be the Presiding Officer and refers the said dispute to it for adjudication.

SCHEDULE

1. Whether the demand of the workmen that the Oil and Natural Gas Commission, Baroda should stop the extra hours of work, which is being taken from the office administrative staff in workshop and fix their working hours on the lines of those of the office staff of the Commission is justified?
2. Whether the demand that the Commission should pay compensation of the administrative staff for the extra hours of work taken from them from June, 1965, at the overtime rate or pay Factory allowance at the rate of 20 percent of the pay to the office administrative staff, who have been asked to work for 8 hours from June, 1965, is justified?
3. If so, to what reliefs are the workmen entitled?

[No. 4/24/67-LR-III.]

R. B. SHUKLA, Director Industrial Relations.

(Deptt. of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 30th July 1968

S.O. 3089.—In exercise of the powers conferred by sub-section (i) of section 3 of the Displaced persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shi Dasaunda Singh, PCS, working in the Rehabilitation Department, Punjab Government as Asstt. Settlement Commissioner in the State of Punjab for the purpose of performing in addition to his own duties as Asstt. Settlement Commissioner, Rehabilitation Department, Punjab Government, the functions assigned to a Settlement Commissioner by or under the said Act, in respect of (i) agricultural lands and shops in any rural areas including houses, cattle sheds and vacant sites forming part of the compensation pool, and (ii) the properties referred to in the notification of the Government of India in the Ministry of Works, Housing and Rehabilitation (Deptt. of Rehabilitation) No. 3 (37)/L & R-63A dated the 5th March, 1964.

This is in supersession of the notification of even number dated the 5th January, 1968 issued by the Department.

[No. 3(s)/L&R-67.]

New Delhi, the 1st August 1968

S.O. 3090.—Whereas the Central Government is of the opinion that it is necessary to acquire the Evacuee Properties specified in the Schedule hereto annexed in the States of Delhi, Madhya Pradesh, Bihar and Orissa for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

A-SCHEDULE

All properties in the States of Delhi, Madhya Pradesh, Bihar and Orissa, which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act upto 30th June 1968 and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officer.

[No. 22(14)/Comp. & Prop./61.]

New Delhi, the 7th August 1968

S.O. 3091.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the States of Punjab and Haryana for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

THE SCHEDULE

All properties in the States of Punjab and Haryana which have been vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act upto 30th June 1968 in respect of which appeals have not been filed, and if filed, have been rejected by the Appellate Officer concerned.

[No. 16(18)/58/Prop. II/Com. & Prop.]

New Delhi, the 17th August 1968

S.O. 3092.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the State of Rajasthan for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such person.

Now, therefore, in exercise of powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

A-SCHEDULE

All properties in the State of Rajasthan which have vested in Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act upto 30th June 1968 and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officer.

[No. 22(13)/Com. & Prop/61.]

S.O. 3093.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Uttar Pradesh for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

SCHEDULE

All properties in the State of Uttar Pradesh which have vested in the Custodian under section 11 of the Evacuee Interest (Separation) Act, 1951 as a result of adjudication by the Competent Officer, under the provisions of said Act upto 30th June, 1968, and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 2(21)/Comp. & Prop./61.]

New Delhi, the 19th August 1968

S.O. 3094.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the State of Gujarat, Maharashtra, Andhra Pradesh, Madras, Mysore and Kerala for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

A-SCHEDULE

All properties in the States of Gujarat, Maharashtra, Madras, Mysore, Andhra Pradesh and Kerala which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act upto 30th June 1968 and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officer.

[No. 1(27)/Comp. & Prop/61.]

New Delhi, the 22nd August 1968

S.O. 3095.—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Shri G. P. Mathur, Assistant Settlement Officer in the office of Regional Settlement Commissioner, New Delhi as Assistant Custodian for the Union Territory of Delhi for the purpose of discharging the duties imposed on such officers by or under the said Act.

[No. P/F.8/135/Comp.I/55/Admn.II.]

S.O. 3096.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints for the Union Territory of Delhi, Shri G. P. Mathur, Assistant Settlement Officer in the office of Regional Settlement Commissioner, New Delhi as Managing Officer for the custody, management and disposal of compensation pool.

[No. F. 8/135/Comp.I/53.]

New Delhi, the 27th August 1968

S.O. 3097.—In exercise of the powers conferred by clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints for the State of U.P., Shri B. B. Agarwal, Assistant Settlement Officer in the office of Assistant Settlement Commissioner Incharge U.P., Lucknow, as Managing Officer for the custody, management and disposal of compensation pool.

[No. 8(79)AGZ/66.]

A. G. VASWANI,

Settlement Commissioner (A) and *Ex-Officio*
Under Secy.

(Department of Rehabilitation)

Office of the Chief Settlement Commissioner

New Delhi, the 31st July 1968

S. O. 3098.—In exercise of the powers conferred on the Chief Settlement Commissioner by Section 34(2) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), he hereby delegates to the Settlement Commissioner, Rehabilitation Department, Punjab Government, Jullundur, his powers under Sections 23, 24 and 28 of the said Act for the purpose of passing necessary orders under these sections in respect of (i) agricultural lands and shops in a rural area including houses, cattle sheds and vacant sites forming part of the compensation pool and (ii) the properties referred to in the notification of the Government of India in the Ministry of Works, Housing and Rehabilitation (Deptt. of Rehabilitation) No. 3(37)L & R-63A, dated the 5th March, 1964.

[No. 3(5)/L&R-67.]

New Delhi, the 29th August 1968

S.O. 3099.—In exercise of the powers conferred on the Chief Settlement Commissioner by sub-section (2) of section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) (hereinafter referred to as the said Act), he hereby delegates with effect from the 1st September, 1968 to the Settlement Commissioner, Jullundur, the following powers of the Chief Settlement Commissioner, namely:—

Powers under Sections 23, 24 and 28 of the said Act.

2. The said powers are to be exercised subject to the condition that the said Settlement Commissioner shall not exercise any of such powers in relation to any matter in which an order has been made by him in his capacity as Settlement Commissioner or revise or review the orders of his predecessor.

[No. 11(1)C&P/68.]

H. K. TANDON,

Chief Settlement Commissioner.

MINISTRY OF STEEL, MINES AND METALS

(Department of Mines & Metals)

New Delhi, the 28th August 1968

S.O. 3100.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan of the area covered by this notification may be inspected in the office of the National Coal Development Corporation Limited (Revenue Section), Darbhanga House, Ranchi (Bihar), or in the office of the Collector, Burdwan (West Bengal) or in the office of the Coal Controller 1-Council House Street, Calcutta.

Any person interested in the lands mentioned in the Schedule to the notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act

to the Revenue Officer of the National Coal Development Corporation Limited, Darbhanga House, Ranchi (Bihar) within ninety days from the date of the publication of this notification in the Gazette of India as required by rule 5 of the Coal Bearing Areas (Acquisition and Development) Rules, 1957.

SCHEDULE
RANI GANJ COALFIELD
BLOCK-XI

(Lands notified for prospecting)
Drg. No. Rev/4/68
Dated 16-1-1968.

| Sl. No. | Village | Thana No. | Police station (Thana) | District | Area | Remarks |
|---------|--------------|-----------|------------------------|----------|------|---------|
| 1 | Ukhra . | 18 | Ondal . | Burdwan | | Part |
| 2 | Balihuri . | 16 | Faridpur . | " | | " |
| 3 | Sirsha . | 17 | " | " | | " |
| 4 | Nabaghanapur | 19 | " | " | | " |
| 5 | Tilabani . | 20 | " | " | | Full |
| 6 | Loudoha . | 21 | " | " | | " |
| 7 | Chaklaudoha | 22 | " | " | | " |
| 8 | Jamgara . | 23 | " | " | | Part |
| 9 | Madhaiganj . | 24 | " | " | | " |
| 10 | Bansia . | 31 | " | " | | " |
| 11 | Shyampur . | 32 | " | " | | " |
| 12 | Jhanjra . | 33 | " | " | | " |
| 13 | Bhadrapur . | 34 | " | " | | " |
| 14 | Sarpi . | 35 | " | " | | " |
| 15 | Kendua . | 36 | " | " | | " |
| 16 | Ichhapur . | 50 | " | " | | " |
| 17 | Amloka . | 51 | " | " | | " |
| 18 | Bangari . | 52 | " | " | | " |

Total area:— 5525.42 acres (approximately)
OR 2237.80 Hectares (Approximately)

Boundary Description

| | |
|---------------------|---|
| A—B—C—D . . . | Lines pass through villages Ukhra and Amloka and meet at point 'D'. |
| D—E . . . | Line passes through villages Banjari and Ichhapur and meets at point 'E'. |
| E—F . . . | line passes along the common boundary of villages Kendua and Chapabandi, Sarpi and Chapabandi and meets at point 'F'. |
| F—G—H . . . | lines pass along the common boundary of villages Sarpi and Bansgara and through village Bhadrapur and meet at point 'H'. |
| H—I—J—K—L—M . . . | lines pass along the part common boundary of villages Jhanjra and Bhadrapur and pass through villages Bhadrapur, Jhanjra, Shyampur, Bansia and Jamgara and meet at point 'M'. |
| M—N . . . | line passes through village Jamgara and Madhaiganj and meets at point 'N'. |
| N—O . . . | line passes through villages Balihuri, Sirsha and Nabaghanapur and meets at point 'O'. |
| O—P . . . | line passes along part common boundary of villages Nabaghanapur and Konardihi and meets at point 'P'. |
| P—Q—R—S—T—U—V . . . | lines pass through villages Nabaghanapur, Jhanjra and Sarpi and meet at point 'V'. |
| V—W—X . . . | lines pass through villages Sarpi, Kendua, Sarpi, Ichhapur and Amloka and meet at point 'X'. |
| X—Y—A . . . | lines pass through village Ukhra and meet at point 'A'. |

[No. C2-24(1)/62.]

RAM SAHAY, Under Secy.

MINISTRY OF EDUCATION

Cultural Activities Division I CAI (I) Section

ARCHAEOLOGY

New Delhi, the 30th August 1968

S.O. 3101.—Whereas the Central Government is of opinion that the ancient and historical monuments specific in the Schedule to this notification have ceased to be of national importance;

Now, therefore, in exercise of the powers conferred by section 35 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares that the monuments aforesaid have ceased to be of national importance for the purposes of the said Act on the 1st January, 1968.

THE SCHEDULE

| Serial No. | State | District | Locality | Name of ancient and historical monuments/sites | Protection Notification No. and Date |
|------------|---------|----------|-----------------------|--|---|
| (1) | (2) | (3) | (4) | (5) | (6) |
| 1. | Haryana | Gurgaon | Farrukhnagar | Shish Mahal | (i) No. 23639, dated the 6th August, 1930. (ii) No. 32101 dated the 3rd November, 1930. No. 507 Archy, dated the 31st December, 1930. |
| 2. | " | Karnal | Daha and Uncha Siwana | Old Badshahi Bridge | (i) No. 223, dated the 21st February, 1914. (ii) No. 580, dated the 26th May, 1914. |
| 3. | " | " | Kaithal | Mosque of Sheikh Tayyib | (i) No. 596, dated the 23rd October, 1911. (ii) No. 42, dated the 13th January, 1912. |

[No. F.4/6/68-CAI(I).]

SHARDA RAO (Mrs.)
Asstt. Educational Adviser.

MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS

(Department of Industrial Development)

New Delhi, the 12th August 1968

S.O. 3102.—In partial modification of the former Ministry of Industry's Resolution No. 6-4/65-CEM.I dated the 2nd February, 1966, the Government of India have decided to extend the functions of the Panel on Asbestos Cement Products Industry to cover the developmental aspect of other products of asbestos, such as, asbestos textiles, packings, jointings, mill boards etc., and to appoint additional members on the said Panel to represent the relevant interests :—

2. The following consequential changes shall be made in the said Resolution, namely:—

(i) the following shall be added as item (g) after (f) namely :

“(g) the developmental aspect of other products of asbestos, such as, asbestos textiles, packings, jointings, mill boards etc.”

(ii) The following entries shall be inserted at the end of the heading ‘Members’, namely :

“7. Shri N. Venkataraman, Works Manager, M/s. Hindustan Ferrodo Ltd., Ghatkopar, Bombay.

8. Shri O. N. Talwar, Director, M/s. Reinz Talbros. Pvt. Ltd., 21 A, Nizamuddin West, New Delhi-13.”

[No. 6-4/65-CEM.]

G. RAMANATHAN, Under Secy.

औद्योगिक विकास तथा समन्वय कार्य मंत्रालय

(औद्योगिक विकास विभाग)

नई दिल्ली, 12 अगस्त 1968

एस० ओ० 3103.—भूतपूर्व उद्योग मंत्रालय के संकल्प संख्या 6-4/65-सीमेंट-1 दिनांक 2 फरवरी, 1966 में आंशिक रूप-भेद करते हुए भारत सरकार ने एस्बेस्टस सीमेंट उत्पाद उद्योग संबंधी नामिका के कार्यों का विस्तार करने जिससे एस्बेस्टस के अन्य उत्पादों के विकासशील पहलुओं को शामिल किया जा सके जैसे एस्बेस्टस टेक्सटाइलों, पैकिंग का सामान, जोड़ने का सामान, मिल बोर्ड आदि तथा सम्बद्ध हितों का प्रतिनिधित्व करने के लिये उपर्युक्त नामिका में अतिरिक्त सदस्य नियुक्त करने का निश्चय किया है ।

2. इसके परिणामस्वरूप उपर्युक्त संकल्प में निम्नलिखित परिवर्तन किये जायेंगे, अर्थात् :—

(1) मद सं० (च) के पश्चात् अर्थात् निम्नलिखित (छ:) जोड़ा जायेगा :

“(छ:) एस्बेस्टस के अन्य उत्पादों जैसे एस्बेस्टस टेक्सटाइलों, पैकिंग का सामान, जोड़ने का सामान, मिल बोर्ड आदि के विकासशील पहलुओं”

(2) “सदस्य” शीर्षक के अन्त में निम्नलिखित प्रविष्टियां निविष्ट की जायेंगी, अर्थात् :—

“7. श्री एन० वेंकटरामन,

बक्स मैनेजर,

मे० हिन्दुस्तान फेरोडो लि०,

घाटकोपर, बम्बई ।

8. श्री श्री० एन० तलवार,
निदेशक,

मे० रीज टालब्राज प्रा० लि०, 21-ए, प० निजामुद्दीन, नई दिल्ली-13

[सं० 6-4/65-सीमेंट-1.]

जी० रामनाथन, ग्रवर सचिव ।

(Department of Industrial Development)

ORDER

New Delhi, the 19th August 1968

S.O. 3104/IDRA/6/68.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act 1951 (65 of 1951) read with Rules 5(1) and 8 of the Development Councils (Procedural) Rules 1952, the Central Government hereby appoints till the 15th April, 1970 S/s. K. K. Ram, President, Hind Motors Employees Union, Calcutta and Sidheshwar Chaudhury, General Secretary, INTUC-Bihar Branch, Jamsnedpur to be members of the Development Council established by the order of the Government of India in the Ministry of Industrial Development and Company Affairs No. S.O. 1465, dated the 16th April, 1968 for the scheduled Industries engaged in the manufacture of production of Automobiles, Automobile Ancillary Industries, Transport Vehicle Industries, Tractors and Earth Moving Equipment and Industrial Combustion Engines and directs that the following entries shall be added to the said order as entries Nos. 29 and 30 namely:—

"29. Shri K. K. Ram, President, Hind Motors Employees Union, P-134, Mudiali Road, Calcutta-24."

"30. Shri Sidheshwar Chaudhury, General Secretary, INTUC-Bihar Branch, 15-K. Road, Jamsnedpur."

[No. 1(80)/67-A.E.Ind.(1).]

S. R. KAPUR, Under Secy.

(Department of Industrial Development)

ORDER

New Delhi, the 19th August 1968

S.O. 3105/IDRA/18G/67.—In exercise of the powers conferred by section 18G and Section 25 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and all other powers enabling it in that behalf, the Central Government hereby makes the following Order further to amend the Cement Control Order, 1967, namely:—

1. This Order may be called the Cement Control (Fifth Amendment) Order, 1968.
2. In the Schedule to the Cement Control Order, 1967:—

(a) in item 4, relating to "M/s. K.C.P. Ltd., Macherla" under the heading 'Price per metric tonne', in column 2, for the entry, "96.00 for every tonne beyond 115,000 tonnes per annum", the following entry shall be substituted, namely:—

"96.00 For every tonne of production in excess of 115,000 tonnes in any year ending on the 31st October";

(b) in item 7, relating to "M/s. Associated Cement Companies Ltd.,"

(i) against "Dwarka Works", under the heading 'Price per metric tonne', in column 2, for the entry, "96.00 For every tonne beyond 239,000 tonnes per annum" the following entry shall be substituted, namely:—

"96.00 For every tonne of production in excess of 239,000 tonnes in any year ending on the 31st August";

(ii) After "Dwarka Works" and the entries relating thereto the following shall be inserted, namely:—

"Madukkarai Works 90.50 upto an annual production of 284,500 tonnes.

96.00 For every tonne of production in excess of 284,500 tonnes in any year ending on the 28th/29th February";

- (c) in item 8, relating to "U.P. Government Cement Factory, Churk", under the heading 'Price per metric tonne' in column 2, for the entry, "96.00 For every tonne beyond 220,000 tonnes per annum", the following entry shall be substituted, namely:—
- "96.00 For every tonne of production in excess of 220,000 tonnes in any year ending on the 31st October.";
- (d) in item 14, relating to "M/s. Birla Jute Manufacturing Company Ltd., Satna", under the heading 'Price per metric tonne' in column 2, for the entry "96.00 For every tonne beyond 225,000 tonnes per annum", the following entry shall be substituted, namely:—
- "96.00 For every tonne of production in excess of 225,000 tonnes in any year ending on the 28th/29th February.";
- (e) in item 16, relating to "M/s. Shree Digvijay Cement Company Limited." :—
- (i) against "Sikka Works" under the heading 'Price per metric tonne', in column 2, for the entry,
- "96.00 For every tonne beyond 260,000 tonnes per annum provided that the combined production of the Sikka and Sewree Works is not less than 410,000 tonnes in that year",
- the following entry shall be substituted, namely:—
- "96.00 For every tonne of production in excess of 260,000 tonnes in any year ending on the 31st December provided that combined production of Sikka and Sewree and Ahmedabad Works is not less than 410,000 tonnes in that year";
- (ii) against "Ahmedabad Works" under the heading 'Price per metric tonne' in column 2, for the entry "115.00", the entry "115.87", shall be substituted;
- (f) in item 17, relating to "M/s. Kalyanpur Lime and Cement Works Limited., Banjari" under the heading 'Price per metric tonne', in column 2, for the entry, "96.00 For every tonne beyond 150,000 tonnes per annum", the following entry shall be substituted namely:—
- "96.00 For every tonne of production in excess of 150,000 tonnes in any year ending on the 31st January";
- (g) the following Note shall be added at end, namely:—
- 'NOTE:—"Higher retention prices shall be paid with effect from the 1st day of January, 1968, if the total annual production of a producer exceeds the limit indicated against that producer."

[No. F. 1-39/68-Cem.]

K. I. VIDYASAGAR, Jt. Secy.

(औद्योगिक विकास विभाग)

आदेश

नई दिल्ली 19 अगस्त, 1968

एस०ओ० 3106—आई०डो०आर०ए०118छ।67—उद्योग (विकास तथा नियमन) अधिनियम, 1951 (1951 का 65) की धारा 18छ और धारा 25 के द्वारा प्रवृत्त शक्तियों तथा इस संबंध में उसे समर्थ बनाने वाली अन्य सभी शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा सीमेंट नियंत्रण आदेश, 1967 में और आगे संशोधन करने के लिए निम्नलिखित आदेश जारी करती है, अर्थात् :—

1. यह आदेश सीमेंट नियंत्रण (पंचम संशोधन) आदेश, 1968 कहलायेगा।

2. मीटि नियंत्रण आदेश, 1967 की अनुसूची में :—

(क) मद संख्या 4 में, जो मेसर्स के सी० पी० लि०, मछरवा से संबंधित है, कालम 2 में, 'मूल्य प्रति मीट्रिक टन' शीर्षक के अन्तर्गत "96.00, 1,15,000 मी० टन प्रति वर्ष से ऊपर प्रत्येक मीट्रिक टन के लिए "प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

"96.00 31 अक्टूबर को समाप्त होने वाले किसी भी वर्ष में 1,15,000 मीट्रिक टन से अधिक पर प्रत्येक मीट्रिक टन उत्पादन के लिए";

(ख) मद संख्या 7 में, जो मेसर्स एसोसियेटेड सीमेंट कम्पनी लिमिटेड से संबंधित है :—

(1) "हारका वर्क्स" के सामने, कालम 2 में, 'मूल्य प्रति मीट्रिक टन', शीर्षक के अन्तर्गत "96.00, 2,39,000 मीट्रिक टन प्रति वर्ष से ऊपर प्रत्येक मीट्रिक टन के लिए" के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

"96.00 31 अगस्त को समाप्त होने वाले किसी भी वर्ष में 2,39,000 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए";

(2) "हारका वर्क्स" के पश्चात् तथा उसके अधिक संबंधित प्रविष्टियों में निम्नलिखित निविष्ट किया जायेगा, अर्थात् :—

"मयूकराई वर्क्स 90.50 2,84,500 मीट्रिक टन वार्षिक उत्पादन तक 96.00 28/29 फरवरी को समाप्त होने वाले किसी भी वर्ष में 2,84,500 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए";

(ग) मद संख्या 8 में जो "उत्तर प्रदेश राजकीय कारखाना, बुर्क" से संबंधित है, कालम 2 में "96.00 2,20,000 मीट्रिक टन प्रति वर्ष से ऊपर प्रत्येक मीट्रिक टन के लिए " नामक प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

"96.00 31 अक्टूबर को समाप्त होने वाले किसी भी वर्ष में 2,20,000 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए";

(घ) मद संख्या 14 में, जो मेसर्स बिड़ला जूट मैनुफैक्चरिंग कम्पनी लिमिटेड, सतना से संबंधित है, कालम 2 में, "96.00 2,25,000 मीट्रिक टन प्रति वर्ष से ऊपर प्रत्येक मीट्रिक टन के लिए " नामक प्रविष्टि के स्थान पर, निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

"96.00 28/29 फरवरी को समाप्त होने वाले किसी भी वर्ष में 2,25,000 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए।"

(ङ) मद संख्या 16 में, जो "मेसर्स श्री इरिविजय सीमेंट कम्पनी लिमिटेड" से संबंधित है,

(1) "सिका वर्क्स" के सामने कालम 2 में, "मूल्य प्रति मीट्रिक टन" शीर्षक के अन्तर्गत इस प्रविष्टि;

“96.00 2,60,000 मीट्रिक टन प्रति वर्ष से ऊपर प्रत्येक मीट्रिक टन के लिए बशर्ते कि सिक्का और सिवरी वर्क्स का सम्मिलित उत्पादन उस वर्ष 4,10,000 मीट्रिक टन से कम न हो,” के स्थान पर—

निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

“96.00 31 दिसम्बर, को समाप्त होने वाले किसी भी वर्ष में 2,60,000 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए बशर्ते कि सिक्का, सिवरी और अहमदाबाद वर्क्स का सम्मिलित उत्पादन उस वर्ष 4,10,000 मीट्रिक टन से कम न हो” ;

(2) ‘अहमदाबाद वर्क्स’ के सामने “मूल्य प्रति मीट्रिक टन” शीर्षक के अन्तर्गत कालम 2 में, “115.00” प्रविष्टि के स्थान पर “115.87” रखी जायेगी;

(च) मद संख्या 17 में, जो “मेसर्स कल्याणपुर लाहम एण्ड सीमेंट वर्क्स लिमिटेड, बैजारी” से संबंधित है, कालम 2 में, “मूल्य प्रति मीट्रिक टन” शीर्षक के अन्तर्गत प्रविष्टि “96.00—1,50,000 मीट्रिक टन से ऊपर प्रत्येक मीट्रिक टन के लिए” के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात् :—

“96.00 31 जनवरी को समाप्त होने वाले किसी भी वर्ष में 1,50,000 मीट्रिक टन से अधिक प्रत्येक मीट्रिक टन उत्पादन के लिए,”

(छ) अन्त में निम्नलिखित टिप्पण जोड़ा जायेगा, अर्थात् :—

टिप्पण :—“यदि किसी निर्माता के सामने दिखाई गई सीमा से उसका कुल वार्षिक उत्पादन बढ़ जाता है तो 1 जनवरी, 1968 से अधिक धारण मूल्य का भुगतान किया जायेगा।

[मिसिल सं० 1-39/68-सीमेंट.]

के० आर्डी० विद्यासागर, संयुक्त सचिव।

(Department of Industrial Development)

ORDER

New Delhi, the 21st August 1968

S.O. 3107.—In exercise of the powers conferred by clause (b) sub-section (1) of section 18A of the Industries Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoint Shri R. J. Shahaney of Jessop and Co. Ltd., and Shri Harbans Singh, Officer on Special Duty, Ministry of Industrial Development and Company Affairs (Department of Industrial Development) as Members of the Board of Management of Messrs. Jessop and Co. Limited, Calcutta and makes the following amendment to the Order of the Government of India in the late Ministry of Commerce and Industry No. S.O. 867 dated the 15th May, 1958 as subsequently continued in force by the Order of the Government of India in the late Ministry of Commerce and Industry No. S.O. 1216 dated the 23rd April, 1963, Order of the Government of India in the late Ministry of Industry and Supply, Department of Industry No. S.O. 1327 dated 24th April, 1965,

Orders of the Government of India in the Ministry of Industrial Development No. S.O. 1556 dated the 1st May, 1967 and No. S.O. 1517 dated the 23rd April, 1968, namely :—

In the said Order for the existing entries under paragraph 3, the following entries shall be substituted, namely :—

Chairman

- (1) Shri Ashok Kumar Chanda.

Members

- (2) The Secretary to the Government of West Bengal, Industries Department.
- (3) Shri K. C. Maitra C/o M/s. Guest, Keen Williams Limited, Jeevan Deep, 1, Middleton Road, Calcutta.
- (4) Shri Harbans Singh, Officer on Special Duty, Ministry of Industrial Development and Company Affairs, Department of Industrial Development.
- (5) Shri V. K. Pankhurst.
- (6) Shri P. K. Bardhan.
- (7) Shri P. C. Kapoor.
- (8) Shri R. J. Shahaney.

Secretary

Shri M. P. Wadhawan.

[No. JA(3)/68.]

N. SUBRAHMANYAM, Secy.

(Department of Industrial Development)

ORDER

New Delhi, the 26th August 1968

S.O. 3108.—Whereas departmental proceedings under Central Civil Services (Classification, Control and Appeal) Rules, 1965 are pending against Shri R. B. Agarwal, Upper Division Clerk, Small Industries Service Institute, Agra;

And whereas the post of Director, Small Industries Service Institute, Agra, who is the disciplinary authority, according to the Schedule to the notification of the Government of India, in the late Ministry of Commerce and Consumer Industries No. SRO 631, dated the 28th February, 1957, as amended by the notification of the Government of India in the Ministry of Industry and Supply No. P. 4/1/64-Vig., dated the 27th August, 1964 (issued under S.R. 3331), was lying vacant when Shri R. B. Agarwal was appointed as an Upper Division Clerk and his appointment had been approved by the Development Commissioner, Small Scale Industries;

Now, therefore, the President in exercise of the powers conferred by clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby orders that,—

- (i) the Development Commissioner, Small Scale Industries, shall be the disciplinary authority competent to impose all the penalties mentioned in rule 11;
- (ii) the Director, Small Industries Service Institute, Kanpur, the disciplinary authority competent to impose any of the minor penalties specified in clauses (i) to (iv) of rule 11; and
- (iii) the Secretary, Ministry of Industrial Development and Company Affairs (Department of Industrial Development) the Appellate Authority under rule 24; of the Central Civil Services Classification, Control and Appeal) Rules, 1965.

[No. 4/1/64-Vig.]

K. RAJA RAM, Dy. Secy.

(Department of Industrial Development)

CORRIGENDUM

New Delhi, the 30th July 1968

S.O. 3109.—In the Ministry of Industrial Development and Company Affairs, Department of Industrial Development Order No. S.O. 1631/IDRA/6/5 dated the 30th April, 1968 published in Part II Section 3 Sub-section (ii) of the Gazette of India dated the 11th May, 1968 :—

For 9. Shri D. Majumdar, Director, Officer of the Development Commissioner Small Scale Industries, New Delhi.

Read 9. Shri B. Majumdar, Deputy Director (Electrical) Officer of the Development Commissioner, Small Scale Industries, New Delhi.

[No. EEI-19(20)/63.]

K. N. SHENOY, Dy. Secy.

(औद्योगिक विकास विभाग)

शुद्धि-पत्र

नई दिल्ली, 30 जुलाई 1968

एस० ओ० 3110.—औद्योगिक विकास तथा समन्वय-कार्य मंत्रालय, औद्योगिक विकास विभाग के आदेश संख्या एस० ओ० 1931/आई० डी० आर० ए०/6/5 दिनांक 30 अप्रैल, 1968 में जो भारत के राजपत्र के भाग 2 खण्ड 3 उप-खण्ड (2) में दिनांक 11 मई, 1968 को प्रकाशित हुआ था :—

9. श्री डी० मजुमदार,
निदेशक, विकास आयुक्त, लघु उद्योग का कार्यालय,
नई दिल्ली ।

के स्थान पर —

9. श्री बी० मजुमदार,
उप-निदेशक (विद्युत्),
विकास आयुक्त लघु उद्योग का कार्यालय,
नई दिल्ली ।

पड़िए ।

[सं० ई० ई० आई०—19(20)/63.]

के० एन० शिनाय, उप सचिव ।

(Department of Industrial Development)

(Indian Standards Institution)

New Delhi, the 15th July 1968

S.O. 3111.—In exercise of the powers conferred by Section 21 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952) read with clauses (a) and (b) of sub-rule (1) of rule 3, and rule 6 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution, with the previous approval of the Central Government, hereby makes the following regulations further to amend the Indian Standards Institution (Certification Marks) Regulations, 1955, namely :—

1. These regulations may be called the Indian Standards Institution (Certification Marks) Amendment Regulations, 1968.

2. In regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955 :—

- (i) In sub-regulation (1) for the words "fifty rupees" and "twenty five rupees" the words "One hundred rupees" and "fifty rupees" shall respectively be substituted;
- (ii) In sub-regulation (3) for the words "One hundred rupees", the words "two hundred rupees" shall be substituted.

3. This notification shall come into force on 1st of August, 1968.

[No. CMD/7:3.]

A. N. GHOSH,
Director General.

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

STAMPS

New Delhi, the 7th September 1968

S.O. 3112.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the stamp duty with which the additional ad-hoc bonds of the value of twelve lakhs of rupees to be issued by the Jammu and Kashmir State Financial Corporation, are chargeable under the said Act.

[No. 14/68. F. No. 1/40/68-Cus. VII/Stamps.]

M. S. SUBRAMANYAM, Under Secy.

